

EXHIBIT 3

(Redacted)

(Previously Filed Under Seal as DI 533)

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

FAIR ISAAC CORPORATION, a Delaware) Case No. 16-cv-1054 (WMW/DTS)
corporation,)
)
Plaintiff,)
)
FEDERAL INSURANCE COMPANY, an)
Indiana corporation,)
)
Defendant.)

DEPOSITION OF OLIVER CLARK

a witness herein, called for examination, taken by and
before Emma White, Court Reporter, at CMS Cameron McKenna
Nabarro Olswang, LLP, Cannon Place, 780 Cannon Street,
London EC4N 6AF,
United Kingdom

Tuesday, 11 September 2018 at 9.05 am

CONFIDENTIAL

ATTORNEYS' EYES ONLY

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11 BY: ALLEN HINDERAKER, ESQ.

12 Also Present: Court Reporter, Emma White
Ms Linda Fleet, Videographer
13 Mr Jim Woodward, FICO

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* I N D E X *

	Page
OLIVER CLARK	
CROSS-EXAMINATION BY MS JANUS	8

1
2
3
4
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6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

* EXHIBITS *

Exhibit	Description	Page
46	Bates FICO0002015 through 022	70
47	Bates FICO0003278 through 279	77
48	Bates FICO0002027 through 2018	85
49	Bates FICO001498_001	91
50	Bates FICO0002023 through 026	91
51	Bates FICO004809_001 through 005	100
52	Bates FICO0001965 through 967	105
53	Bates FED009351_001 through 006	109
54	Bates FICO0001758 through 759	112
55	Bates FED001491_0001	118
56	Bates FICO0001971 through 972	121
57	Bates FICO0001769 through 775	125
58	Bates FICO0001975 through 981	126
59	Bates FICO0001982 through 988	139
60	Bates FICO0001996 through 998	148
61	Bates FICO0002001 through 002	149
62	Bates FICO0002454 through 455	155
63	Bates FICO0000929 through 932	165
64	Bates FICO0001408	175
65	Bates FICO0003090 through 092	180
66	Bates FICO0000767 through 777	183

1			
2	67	Bates Plaintiff Fair Isaac Corporation's First Supplemental Answers to Defendant's First Set Of Interrogatories	187
3			
4	68	Bates FICO00003127 through 129	189
5	69	Bates FICO00003132 through 133	193
6	70	Bates FICO00004775 through 778	203
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
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1 Tuesday, 11 September 2018
2 (9.05 am)
3 VIDEOGRAPHER: This is Media No. 1 in the videotaped
4 deposition of Oliver Clark in the matter of Fair Isaac
5 Corporation versus Federal Insurance Company in the
6 United States District Court, District of Minnesota,
7 Case No. 16cv-1054(WMW-DTS). Today's date is September
8 11, 2018, and the time on the video monitor is 9.05 am.
9 The Video Operator today is Linda Fleet representing
10 Depo International. This video deposition is taking
11 place at CMS, Cameron McKenna Nabarro Olswang, Cannon
12 Place, 78 Cannon Street, London EC4N 6AF.
13 Counsel, please voice identify yourselves and state
14 whom you represent.
15 MS JANUS: Leah Janus, Fredrikson & Byron, representing the
16 defendant.
17 MR HINDERAKER: Allen Hinderaker from Merchant & Gould
18 representing FICO.
19 MR WOODWARD: Jim Woodward, deputy GC inside counsel for
20 FICO.
21 VIDEOGRAPHER: The Court Reporter today is Emma White and
22 could the reporter please swear in the witness?
23 OLIVER CLARK,
24 having been duly sworn,
25 testified as follows:

Page 6

1 CROSS-EXAMINATION BY MS JANUS:
2 BY MS JANUS:
3 Q Good morning.
4 A Good morning.
5 Q Please state your name for the record.
6 A Oliver Clark.
7 Q Mr Clark, what's your professional address?
8 A Could you --
9 Q Your work address?
10 A Work address is The Cotton Center, Fifth Floor, Hay's
11 Lane, London.
12 Q Where are you employed? What company are you employed
13 for?
14 A My employer is FICO.
15 Q Okay, and "FICO" stands for what?
16 A Could you clarify?
17 Q The name of your company is -- is it just "FICO" or does
18 the -- do those letters stand for something?
19 A Historically I believe it was Fair Isaac Corporation.
20 Q Okay, but now it's just FICO?
21 A That is, I believe, the name we trade under. Yes.
22 Q Okay.
23 Have you been deposed before?
24 A No.
25 Q Okay.

Page 7

1 I'm just going to go over a couple of the ground
2 rules with you. You've been sworn in, so you're
3 testifying under oath. Do you understand that?
4 A I do.
5 Q Okay, so you're testifying as if you're in a court of
6 law before a judge and a jury. Do you understand that?
7 A I do.
8 Q I'm going to ask you questions. You're here to provide
9 answers. If you don't understand a question that I've
10 asked please ask me to rephrase or tell me that you
11 don't understand. Is that okay?
12 A That is okay. Yes.
13 Q Okay.
14 A Yes.
15 Q You're doing a good job so far in terms of timing. It's
16 important that you wait for me to finish my question
17 before you speak so that the record is clear. Is that
18 fair?
19 A Yes.
20 Q Okay?
21 A Yes.
22 Q If you don't tell me that you haven't heard or that you
23 don't understand a question, then I'll assume that
24 you've heard and that you understand the question, okay?
25 A Er ... yes. I agree. Yes.

Page 8

1 Q And then in terms of answering, it's important that you
2 use words rather than gestures or shrugs of the shoulder
3 or nods of the head, okay?
4 A I understand.
5 Q Okay.
6 What did you do to prepare for your deposition
7 today?
8 MR HINDERAKER: Object to the question to the extent it
9 seeks to invade attorney/client privilege and work
10 product.
11 BY MS JANUS:
12 Q You can go ahead and answer.
13 A I met with the team yesterday.
14 Q And who do you mean by, "The team"?
15 A Mr Hinderaker and Mr Woodward.
16 Q Did you review any documents?
17 MR HINDERAKER: That's a yes or no question.
18 A No.
19 BY MS JANUS:
20 Q Did you review any documents outside of your meeting in
21 preparation for your deposition today?
22 A Yes.
23 Q When did you review those documents?
24 A Once I knew of this event I familiarized myself with --
25 sorry -- once I knew of this event, is my answer.

Page 9

<p>1 Q Okay, and when was that?</p> <p>2 A I cannot recall exactly when I was contacted about this.</p> <p>3 Q Can you give me a rough idea? Was it a couple of weeks</p> <p>4 ago? A couple of months ago?</p> <p>5 A Again I cannot answer with any precision on that</p> <p>6 question.</p> <p>7 Q What documents did you review?</p> <p>8 A I reviewed email communications.</p> <p>9 Q How did you go about doing that?</p> <p>10 A Just using my personal computer the company provides me</p> <p>11 with.</p> <p>12 Q Okay, so you reviewed email communications that are in</p> <p>13 your mailbox?</p> <p>14 A Yes.</p> <p>15 Q Okay.</p> <p>16 Do you know whether those email communications have</p> <p>17 been produced in this lawsuit?</p> <p>18 A I do not.</p> <p>19 Q How did you locate the email communications that you</p> <p>20 reviewed?</p> <p>21 A I file my email communications by customer.</p> <p>22 Q Okay, and so -- take me through the steps you used to</p> <p>23 locate the emails that you reviewed to prepare for the</p> <p>24 deposition.</p> <p>25 A I referred to the file on Chubb and reviewed emails</p> <p style="text-align: right;">Page 10</p>	<p>1 A I cannot quantify the number of emails in that folder.</p> <p>2 Q Well, did you look at every email?</p> <p>3 Let me clarify the question. Did you look at every</p> <p>4 email in your Chubb email folder in preparation for this</p> <p>5 deposition?</p> <p>6 A I cannot say that I reviewed every email.</p> <p>7 Q Would it have been too time-consuming to review every</p> <p>8 email?</p> <p>9 MR HINDERAKER: Objection, vague.</p> <p>10 A Sorry, could you clarify the question?</p> <p>11 BY MS JANUS:</p> <p>12 Q Why didn't you review every email?</p> <p>13 A My intention was to familiarize myself with the rough</p> <p>14 timelines for dates, the approximate dates of</p> <p>15 interactions.</p> <p>16 Q So do you have an approximate -- approximation of how</p> <p>17 many emails you reviewed?</p> <p>18 MR HINDERAKER: Asked and answered.</p> <p>19 BY MS JANUS:</p> <p>20 Q Go ahead.</p> <p>21 A I cannot put a number on the number of emails.</p> <p>22 Q How much time did you spend reviewing the emails?</p> <p>23 A It was in the order of one hour or two.</p> <p>24 Q And what were you -- you said you were looking for</p> <p>25 approximate timelines for interactions. What, in</p> <p style="text-align: right;">Page 12</p>
<p>1 contained within that folder.</p> <p>2 Q Okay, and is it your practice to file both sent and</p> <p>3 received emails in your Chubb folder?</p> <p>4 A Typically only received.</p> <p>5 Q Okay.</p> <p>6 Is there a process by which your company files sent</p> <p>7 emails?</p> <p>8 MR HINDERAKER: Objection, lack of foundation.</p> <p>9 BY MS JANUS:</p> <p>10 Q As far as you know?</p> <p>11 A I'm not aware of any policy on that topic.</p> <p>12 Q Okay.</p> <p>13 Do you have a practice for filing sent emails?</p> <p>14 A I do not have a systematic practice for filing sent</p> <p>15 emails.</p> <p>16 Q By that I take it you mean sometimes you file them and</p> <p>17 sometimes you don't? Is that fair?</p> <p>18 A Yes.</p> <p>19 Q Were there sent emails in your Chubb email folder?</p> <p>20 A I do not recall.</p> <p>21 Q Do you recall approximately how many emails are in your</p> <p>22 Chubb email folder?</p> <p>23 A I do not recall.</p> <p>24 Q Can you give me a ballpark? Is it more than a thousand</p> <p>25 or closer to a couple of hundred?</p> <p style="text-align: right;">Page 11</p>	<p>1 particular, were you looking for in reviewing the</p> <p>2 emails?</p> <p>3 A My intention was to -- because this was a number of</p> <p>4 years ago -- was just to understand when I started</p> <p>5 interacting with the client, and when I last contact --</p> <p>6 interacted with the client.</p> <p>7 Q Were you also reviewing the emails checking for any</p> <p>8 particular content?</p> <p>9 A It was -- my intention was to familiarize myself with</p> <p>10 the overall shape of the interactions with the customer.</p> <p>11 Q What do you mean by, "Overall shape"?</p> <p>12 A As I said earlier, the periods when I started</p> <p>13 interacting and when I finished and when the activity,</p> <p>14 the main activities, took place.</p> <p>15 Q What is your position at FICO?</p> <p>16 A I'm a director in the Pre-Sales Consulting division,</p> <p>17 working within a line of business responsible for one of</p> <p>18 the three lines of business that FICO provides.</p> <p>19 Q Director in the Pre-Sales Consulting division? Is that</p> <p>20 correct?</p> <p>21 A Yes --</p> <p>22 Q Okay.</p> <p>23 A -- of one of the lines of business.</p> <p>24 Q Of one of the lines of business, and which line of</p> <p>25 business?</p> <p style="text-align: right;">Page 13</p>

1 **A This is the Decision Management Suite line of business.**
2 Q What -- how long have you been a director in the
3 Pre-Sales Consulting division?
4 **A I cannot recall when I was promoted to that role, to**
5 **that title, sorry. The role I've had for longer, so I**
6 **cannot recall the exact date of the promotion.**
7 Q How long have you been in this role?
8 **A Since 2014 I've been managing a team of consultants.**
9 Q 2014 to the present?
10 **A Yes.**
11 Q Okay, and how long have you been at FICO?
12 **A Since 2011.**
13 Q What positions did you hold prior to your current
14 position?
15 **A I joined as a senior consultant, became a manager in**
16 **2014 and then promoted to director in -- I believe it**
17 **was 2015.**
18 Q Okay.
19 I'll get back to those positions in a moment, but
20 first can we just do a brief description of your past
21 employment and education? So you started at FICO in
22 2011?
23 **A Correct.**
24 Q Where did you work prior to FICO?
25 **A Prior to FICO I worked for a company called**

Page 14

1 **"Algorithmics".**
2 Q What did you do, in general terms, for them?
3 **A Pre-sales consulting.**
4 Q How long were you with Algorithmics?
5 **A I think it was in the order of nine months.**
6 Q What about prior to Algorithmics?
7 **A Prior to Algorithmics I was employed by IBM.**
8 Q "IBM", did you say?
9 **A Yes.**
10 Q Okay.
11 How long were you employed with IBM?
12 **A I joined the company that was acquired by IBM in 2007,**
13 **so that -- yeah.**
14 Q Okay.
15 What was your role there?
16 **A Pre-Sales Consultant.**
17 Q I'm starting to notice a pattern.
18 What did you do prior to IBM?
19 **A I worked for Experian.**
20 Q How long did you work there?
21 **A Since May 2005 until -- I believe it was October 2007.**
22 Q Okay.
23 What was your role with Experian?
24 **A The title was, "Professional Services Consultant". The**
25 **role was a combination of pre-sales, training and some**

Page 15

1 **elements of delivery as well.**
2 Q Okay.
3 Prior to Experian?
4 **A I was at university.**
5 Q Where did you go to school?
6 **A Durham University.**
7 Q Where is that?
8 **A Durham, United Kingdom.**
9 Q What's your degree in?
10 **A That was a Masters in computer science, and ...**
11 Q Were you about to say something else?
12 **A No, no. That was the Masters.**
13 Q Okay, and then did you have any other degrees?
14 **A Yes, a Bachelor of Science.**
15 Q From where?
16 **A University of Warwick, United Kingdom.**
17 Q That's like an undergraduate degree?
18 **A Yes.**
19 Q What about any -- do you have any certifications other
20 than a Masters in computer science?
21 **A A B.Sc in computer science.**
22 Q What is that?
23 **A Bachelor of Science.**
24 Q Okay, and so I'm asking just -- other than your Masters
25 degree do you have any professional certifications that

Page 16

1 you use in your line of business at all?
2 **A No.**
3 Q Okay.
4 Okay, so you started at FICO in 2011 as a senior
5 consultant, and then you became a manager in 2014 and
6 a director in 2015, and was all of your work at FICO --
7 was your work always in the Pre-Sales Consulting area?
8 **A Correct.**
9 Q Okay.
10 So even when you were working as a senior consultant
11 your focus was in Pre-Sales Consulting?
12 **A Correct.**
13 Q Okay.
14 You mentioned that you work for the Decision
15 Management Suite and that is one line of business at
16 FICO? Is that correct?
17 **A Correct.**
18 Q Have you always worked in the Decision Management Suite
19 line of business since you've been at FICO?
20 **A No.**
21 Q Okay.
22 Tell me how that's changed over time.
23 **A When I joined the company we had a Pre-Sales department.**
24 **My alignment was on what was then called Decision**
25 **Management Tools, but there was a reorganization to**

Page 17

1 introduce lines of business in our region.
2 Q When was that?
3 A I cannot precisely remember when that took place.
4 Q So is it fair to say that prior to the reorganization
5 your focus was on the Decision Management tools, even
6 though the company wasn't organized with Decision
7 Management Suite being a separate line of business?
8 A Could you repeat the question sorry?
9 Q Sure.
10 I'm just -- is it fair to say that prior to the
11 reorganization your focus was on Pre-Sales Consulting in
12 the Decision Management tools space?
13 A That -- that was my focus, yes.
14 Q Okay, and the effect of the reorganization was -- did
15 the reorganization have a practical effect on your focus
16 or did it change your focus in some way?
17 A Sorry, could you expand on, "Practical effect"?
18 Q Yeah, I'm just trying to understand if your duties were
19 roughly the same -- though you were getting promotions,
20 your duties or your focus at FICO was relatively the
21 same over the yours you've been there.
22 A With the exception of the management responsibilities,
23 yes.
24 Q Okay.
25 Is the -- so describe for me what, "Pre-Sales

Page 18

1 Consulting", is.
2 A So, my primary responsibility is to help the company
3 develop new business. So, to progress opportunities,
4 so -- opportunities for license or for services, or --
5 for license or for services, in conjunction with the
6 client partner who is the salesperson responsible for
7 a specific account.
8 Q And you are performing those duties in connection with
9 the Decision Management Suite? Is that correct?
10 A My primary focus is on --
11 Q Okay.
12 A -- the Decision Management Suite, yes.
13 Q And what is, "Blaze"?
14 A Blaze Advisor is a software product.
15 Q Can you describe for someone who's not in your line of
16 business, or familiar with Blaze Advisor, what it is?
17 A It is classified as a decision rules management system
18 designed to allow for the management and execution of
19 business decisions in a way that makes them easy to
20 change quickly.
21 Q Is Blaze Advisor one of the products that FICO sells?
22 A Yes.
23 Q And is it a product that is within the Decision
24 Management Suite line of business?
25 A Yes.

Page 19

1 Q So would you consider yourself to be a specialist in the
2 Blaze Advisor software?
3 A We consider ourselves generalists in decision
4 management, and -- yeah. We consider ourselves
5 generalists in the field of decision management.
6 Q Okay. I don't know what -- what do you mean by that?
7 A So our -- the primary focus of pre-sales consulting is
8 to match customers' business requirements against the
9 capabilities that FICO can offer, regardless of the
10 underlying software.
11 Q You are trying to, or your goal as Pre-Sales Consultant
12 is to sell FICO's products and services to customers;
13 correct?
14 A That is one of our objectives, is it develop business
15 for the company.
16 Q And so that FICO recognizes revenue from either the
17 licensing of its software or the sale of its services?
18 Is that fair?
19 A Correct.
20 Q You mentioned two categories for business development.
21 One you said was opportunities for license. Is that
22 correct?
23 A Yes.
24 Q What do you mean by, "Opportunities for license"?
25 A So, if the customer or a prospect has an upcoming

Page 20

1 project and there is a match of their requirements to
2 the capabilities of our technology, then the opportunity
3 is there for a license to be provided to that prospect
4 or customer.
5 Q Is that -- is licensing software one of the primary
6 sources of revenue for FICO?
7 MR HINDERAKER: Objection, lack of foundation.
8 A Could you repeat the question, please?
9 BY MS JANUS:
10 Q Sure.
11 As far as you know, based on your experience as
12 a director in Pre-Sales Consulting, is licensing revenue
13 a major source of revenue for FICO?
14 MR HINDERAKER: Objection, lack of foundation.
15 A It is one of the -- my understanding is that it's one of
16 the principal components of the company's revenue.
17 BY MS JANUS:
18 Q What is your experience with licensing in your role as
19 a director, or -- I should -- let me get at it that way.
20 Strike that.
21 What is your role in the licensing process at FICO?
22 A My -- the licensing process is handled by people outside
23 of my role. I may make suggestions -- intended usage of
24 the solution.
25 Q What do you mean by that?

Page 21

1 **A So, having worked with a customer I might have a good**
2 **sense of the intended usage, and, therefore, this**
3 **information feeds into the licensing process.**
4 Q "Intended usage", means what? I guess -- what do you
5 mean by, "Intended usage"?
6 **A The software is general purpose, and so, "Intended**
7 **usage", may be which business application the technology**
8 **will be used within.**
9 Q Okay.
10 Do you -- who that you work with deals with
11 licensing?
12 **A The client partner is the person responsible.**
13 Q And do you have several client partners that you work
14 with?
15 **A Yes.**
16 Q Okay.
17 Did you work with a client partner in connection
18 with the Chubb relationship?
19 **A Yes.**
20 Q Who was that?
21 **A Richard Hill in the UK.**
22 Q Okay.
23 Is that it?
24 **A And in the US Mike Sawyer.**
25 Q Going back to licenses for a moment, so describe for me

Page 22

1 the process you go through when you're working with
2 a client in connection with pre-sales consulting.
3 So, you first begin working with a client. Just
4 describe for me generally what that process involves for
5 you.
6 **A So, we endeavour to follow a sales process defined by**
7 **the company.**
8 Q Describe the process.
9 **A So, generally speaking, the process starts with**
10 **qualification -- is this a good fit for both parties.**
11 **If it is, we progress to requirements-gathering and**
12 **solution design. Once we are selected as a vendor,**
13 **that's where pre-sales consulting plugs out of an**
14 **opportunity, typically.**
15 Q Say that again? I -- you said, "Requirements
16 gathering", and what?
17 **A "Solution design".**
18 Q What is involved in that, for someone who's not in your
19 line of business?
20 **A Solution design is where you outline to the customer**
21 **what configuration of a software or services or both**
22 **meets their requirements.**
23 Q So, are you working very closely, generally, with the
24 client and the client systems at that stage?
25 **A We would typically have had a number of meetings,**

Page 23

1 **workshops, or perhaps more formal RFP process where it's**
2 **conducted at arm's length.**
3 Q Okay, and then at a certain point it's not arm's length
4 though, right? What point do you start dealing more
5 closely with the client?
6 **A Typically in the solution design phase. That's where**
7 **pre-sales consulting takes a more forward role.**
8 Q Okay. Describe that.
9 **A We will work with a customer to capture requirements.**
10 Q What do you mean by, "Capture requirements"?
11 **A In some cases the clients cannot -- does not have a full**
12 **list of requirements so we will work with the customer**
13 **to understand the full range of requirements.**
14 Q Okay. What's next?
15 **A We will design or outline a solution that fits their**
16 **needs.**
17 Q And is that something that you do in conjunction with
18 the client? The design and outline of a solution?
19 **A Yes.**
20 Q So for someone, again, who's not in your line of work,
21 what does that involve? The design -- and maybe it
22 varies based on the project, but just in general terms
23 what does the design and outline of the solution
24 involve?
25 **A In its most simple form it's the articulation of how our**

Page 24

1 **solution can fit in with their requirements and deliver**
2 **against their stated business objectives.**
3 Q And when you say your, "Solution", are -- do you refer
4 to a software that FICO owns?
5 **A Software may be part of the solution.**
6 Q What else could be part of it?
7 **A There may also be services.**
8 Q At what stage in the sales process do you enquire about
9 licensing?
10 MR HINDERAKER: Objection, argumentative, assumes facts not
11 in evidence.
12 **A Sorry, could you clarify the question for me?**
13 **BY MS JANUS:**
14 Q Sure.
15 At some point during the sales process do you make
16 a determination about whether a license will be required
17 in the relationship?
18 **A That is primarily the responsibility of the client**
19 **partner.**
20 Q Do you -- are you involved in that process in any way?
21 **A I can say that I'm involved in the opportunity, but**
22 **the -- it is the responsibility of the client partner to**
23 **own and run the opportunity.**
24 Q Well, do you consult about, for instance, whether there
25 is a pre-existing license with the customer that you're

Page 25

<p>1 dealing with?</p> <p>2 MR HINDERAKER: Objection, vague, hypothetical.</p> <p>3 A Sorry, could you expand on the question, please?</p> <p>4 BY MS JANUS:</p> <p>5 Q As you're dealing with the client it's important for you</p> <p>6 to know the status of the license relationship; correct?</p> <p>7 A Correct.</p> <p>8 Q Why is that?</p> <p>9 A Even though it's not my responsibility I need to know</p> <p>10 that there is an opportunity for the company for</p> <p>11 applying my time.</p> <p>12 Q What do you mean by that?</p> <p>13 A I have a responsibility to the company to make sure that</p> <p>14 my time is spent productively and in accordance with my</p> <p>15 role.</p> <p>16 Q And so it would not be productive for you to try to</p> <p>17 develop business if there would not be additional</p> <p>18 licensing revenue that would come from that business?</p> <p>19 A The -- my role also includes an element of customer --</p> <p>20 almost technical account management, as it were, so I</p> <p>21 need to be clear; either is this an opportunity or is</p> <p>22 this something where it's considered building a customer</p> <p>23 relationship for the purposes of referencability, for</p> <p>24 example.</p> <p>25 Q Okay, so it's important for you to know the scope of the</p> <p style="text-align: right;">Page 26</p>	<p>1 of the license is to understand if there is an</p> <p>2 opportunity to license that product or not; correct?</p> <p>3 A Sorry, could you repeat the question?</p> <p>4 Q Strike that.</p> <p>5 When you say there would be no near term opportunity</p> <p>6 for a specific product, by, "Product", do you mean</p> <p>7 software offered by FICO?</p> <p>8 A Yes.</p> <p>9 Q Okay.</p> <p>10 A Yes.</p> <p>11 Q And then you said separate from sort of assessing the</p> <p>12 opportunity, you also provide technical support to</p> <p>13 clients?</p> <p>14 A I would not classify it as technical support.</p> <p>15 Q Okay.</p> <p>16 I wrote down your language, so how -- you tell me</p> <p>17 what you meant by that.</p> <p>18 MR HINDERAKER: Objection, vague. Meant by what?</p> <p>19 BY MS JANUS:</p> <p>20 Q Go ahead.</p> <p>21 A Sorry, I don't recall saying that I was providing</p> <p>22 technical support.</p> <p>23 Q Okay.</p> <p>24 Is there some aspect of the services that you</p> <p>25 provide on behalf of FICO that involves technical</p> <p style="text-align: right;">Page 28</p>
<p>1 license that governs a particular client for two</p> <p>2 reasons, it sounds like: one is because you have</p> <p>3 a responsibility to spend your time productively on</p> <p>4 behalf of the client; correct?</p> <p>5 MR HINDERAKER: I object to the question to the extent it</p> <p>6 misstates his testimony.</p> <p>7 BY MS JANUS:</p> <p>8 Q Go ahead.</p> <p>9 A I believe I said my responsibility is to make sure that</p> <p>10 my time is spent appropriately from the perspective of</p> <p>11 FICO.</p> <p>12 Q Okay.</p> <p>13 Well, my question to you was why is it important for</p> <p>14 you to understand the license relationship with the</p> <p>15 client you're working with. So if -- why don't you</p> <p>16 answer that question. Why is it important that you</p> <p>17 understand the scope of the license in any given client</p> <p>18 relationship you're working on?</p> <p>19 A The reason would be so that I can understand what the</p> <p>20 potential opportunity is.</p> <p>21 Q Okay, so once there's a license for software there's no</p> <p>22 opportunity to license that software again; correct?</p> <p>23 A For a specific product there would be no near term</p> <p>24 opportunity.</p> <p>25 Q Okay, so one of the reasons you need to know the scope</p> <p style="text-align: right;">Page 27</p>	<p>1 maintenance or consulting for clients?</p> <p>2 A We have a division, "Professional Services", which is</p> <p>3 chargeable, that fulfills that function.</p> <p>4 Q Okay, and that's the other sort of major bucket of</p> <p>5 revenue that you mentioned developing? Is that correct?</p> <p>6 A I would say that there are -- clients will often employ</p> <p>7 our Professional Services team to help implement</p> <p>8 projects.</p> <p>9 Q So you -- but that wasn't really my question.</p> <p>10 So, you mentioned licensing opportunities as one</p> <p>11 business development focus of yours; correct?</p> <p>12 A Correct.</p> <p>13 Q And you also mentioned Professional Services as the</p> <p>14 other business development focus of yours. Is that</p> <p>15 correct?</p> <p>16 A I mentioned that as a potential source of opportunities,</p> <p>17 yes.</p> <p>18 Q Okay.</p> <p>19 Are those the two main sources of revenue that you</p> <p>20 attempt to generate for FICO?</p> <p>21 A Yes.</p> <p>22 Q So is it fair to say that as you're looking at a given</p> <p>23 client or potential client for FICO, you're looking for</p> <p>24 licensing opportunities and opportunities for</p> <p>25 professional services? Is that fair?</p> <p style="text-align: right;">Page 29</p>

<p>1 A Sorry, could you repeat the question from the start?</p> <p>2 Q Can you read it back?</p> <p>3 (RECORD READ)</p> <p>4 A I would also include, as I said, the ability to build</p> <p>5 referencability in our customers as well, so it's not</p> <p>6 purely a focus on opportunities. It's also looking at</p> <p>7 things like referencability.</p> <p>8 Q And what does that mean?</p> <p>9 A Referencability is the involvement of our customers in</p> <p>10 things like case studies, press releases, and speaking</p> <p>11 at customer events as well as doing reference calls for</p> <p>12 other prospective customers.</p> <p>13 Q Okay.</p> <p>14 So, in terms of, though, actually generating</p> <p>15 revenue, the two categories that I mentioned are the two</p> <p>16 ways that you are looking to generate revenue from</p> <p>17 a given client? Is that fair?</p> <p>18 MR HINDERAKER: I object to the question as argumentative,</p> <p>19 assumes facts not in evidence.</p> <p>20 BY MS JANUS:</p> <p>21 Q Go ahead.</p> <p>22 A I would look at it holistically, because referencability</p> <p>23 is also a good way to generate business for the company.</p> <p>24 Q What is -- okay.</p> <p>25 So -- but if I'm -- my question, I don't think it's</p> <p style="text-align: right;">Page 30</p>	<p>1 developments in the product that they might not be aware</p> <p>2 of, so that is an element of my role.</p> <p>3 Q Anything else?</p> <p>4 A Sorry, could you be more specific?</p> <p>5 Q No. I'm asking you. You said, "There are other things</p> <p>6 I would consider in a larger account". You mentioned</p> <p>7 one additional thing. Is there anything else?</p> <p>8 A Again, on a similar theme, if they were a large account</p> <p>9 and we had our Professional Service people doing work in</p> <p>10 the account then I would periodically catch up, speak to</p> <p>11 the Professional Services people, to get a measure of</p> <p>12 the overall satisfaction of the customer.</p> <p>13 Q Okay. Anything else?</p> <p>14 A Finally, it is considered best practice to -- after the</p> <p>15 close of an opportunity -- to visit the customer after</p> <p>16 a certain period of time and confirm that the solution</p> <p>17 is delivering against their needs.</p> <p>18 Q Anything else?</p> <p>19 A I cannot think of anything right now.</p> <p>20 Q Do you regularly review FICO's software licenses in</p> <p>21 connection with your position at FICO?</p> <p>22 A It is not my responsibility to do that.</p> <p>23 Q Okay, not my question though.</p> <p>24 A I do not regularly review legal materials or licenses.</p> <p>25 Q Do you, on occasion, review FICO's software licenses?</p> <p style="text-align: right;">Page 32</p>
<p>1 that complicated -- my question is just for -- you're</p> <p>2 looking at potential customer A, potential client A, as</p> <p>3 you are assessing how to generate revenue for FICO from</p> <p>4 that client, your general buckets of possible revenue</p> <p>5 are: 1) licensing fees; and 2) fees that you could</p> <p>6 generate for FICO from professional services. Is that</p> <p>7 fair?</p> <p>8 MR HINDERAKER: Objection, argumentative, misstates his</p> <p>9 testimony. He has told you exactly the opposite.</p> <p>10 MS JANUS: Please don't coach the witness.</p> <p>11 MR HINDERAKER: I'm not trying to. I'm sorry. Not my</p> <p>12 intention. It's the repetitiveness. You could be fair</p> <p>13 to the witness in terms of listening to what he's saying</p> <p>14 to you.</p> <p>15 BY MS JANUS:</p> <p>16 Q Go ahead and answer.</p> <p>17 A So, for a new prospect, a greenfield non-customer of</p> <p>18 FICO, then I would say yes, but for a larger account I</p> <p>19 would say there are other things I would consider.</p> <p>20 Q And those are the referencability piece?</p> <p>21 A That is one of the aspects.</p> <p>22 Q What other things would you consider?</p> <p>23 A So, as I mentioned, one of the -- my responsibilities is</p> <p>24 to make sure that our customers are happy and that I --</p> <p>25 and checking that, for example, they are aware of new</p> <p style="text-align: right;">Page 31</p>	<p>1 A I have, on occasion, opened license documents.</p> <p>2 Q Have you reviewed the Chubb license for Blaze Advisor?</p> <p>3 A I have opened some of the documentation relating to that</p> <p>4 license.</p> <p>5 Q What's the answer to my question?</p> <p>6 MR HINDERAKER: You can ask a different question but you got</p> <p>7 an answer.</p> <p>8 BY MS JANUS:</p> <p>9 Okay. What is the document -- I guess -- have you</p> <p>10 reviewed the Chubb license? I'll reask it.</p> <p>11 MR HINDERAKER: Do you understand what she means by</p> <p>12 "Review"? Is that the problem?</p> <p>13 A Yes. I think that's -- it's a word that can mean many</p> <p>14 things. Could you clarify?</p> <p>15 BY MS JANUS:</p> <p>16 Q Have you read it?</p> <p>17 A I have read parts of the document.</p> <p>18 Q When did you read parts of the document?</p> <p>19 A I recall that at one time we were positioning an</p> <p>20 additional module of the software to the customer, to</p> <p>21 Chubb, and part of that exercise required us to</p> <p>22 understand what the total contract value was, so my -- I</p> <p>23 reviewed the document in order to find that value --</p> <p>24 that number.</p> <p>25 Q What was the module?</p> <p style="text-align: right;">Page 33</p>

<p>1 A This was for something called, "Decision Simulator".</p> <p>2 Q Are you involved in determining the proper scope of a</p> <p>3 FICO software license?</p> <p>4 MR HINDERAKER: Objection, vague.</p> <p>5 A Could you clarify what you mean by, "Proper scope"?</p> <p>6 BY MS JANUS:</p> <p>7 Q Do you have -- do you have an understanding of generally</p> <p>8 what the scope of a license would mean in your business?</p> <p>9 A The scope is often defined by the customer in, for</p> <p>10 example, their own documentation. So if it's</p> <p>11 a proposal, they will say -- give a written indication</p> <p>12 of the extent to which they would like to use the</p> <p>13 software. So, yes, inasmuch as I will often read the</p> <p>14 customer's documentation that they provide and</p> <p>15 internally agree what it is we think the customer is</p> <p>16 trying to do.</p> <p>17 Q What are ways that you are familiar with of limiting the</p> <p>18 scope of a FICO software license?</p> <p>19 MR HINDERAKER: Objection, vague, assumes facts not in</p> <p>20 evidence, foundation.</p> <p>21 A Sorry, the question was ... could you repeat the</p> <p>22 question please?</p> <p>23 BY MS JANUS:</p> <p>24 Q Can you read it back?</p> <p>25 (RECORD READ)</p> <p style="text-align: right;">Page 34</p>	<p>1 limited to Europe?</p> <p>2 MR HINDERAKER: Objection, lack of foundation.</p> <p>3 A As I explained, that's something that I'm not personally</p> <p>4 involved in.</p> <p>5 BY MS JANUS:</p> <p>6 Q But you're familiar with the concept, I take it?</p> <p>7 A I'm familiar with the concept, yes.</p> <p>8 Q And if FICO in Europe generates an opportunity to</p> <p>9 license its software to a client in Europe, how is that</p> <p>10 revenue recognized?</p> <p>11 MR HINDERAKER: Objection, lack of foundation.</p> <p>12 A I'm not familiar with the precise revenue recognition</p> <p>13 rules.</p> <p>14 BY MS JANUS:</p> <p>15 Q Okay.</p> <p>16 Generally though, do you understand that FICO in</p> <p>17 Europe would actually be credited with that generation</p> <p>18 of revenue if it originated a license in Europe?</p> <p>19 MR HINDERAKER: Same objection. Lack of foundation.</p> <p>20 A I believe so, given the way that the company has been</p> <p>21 set up.</p> <p>22 BY MS JANUS:</p> <p>23 Q Fair to say that FICO in Europe then prefers to work on</p> <p>24 licensing opportunities when there is an opportunity to</p> <p>25 generate revenue through a license in Europe?</p> <p style="text-align: right;">Page 36</p>
<p>1 A So, my line of work, this tends to be often based on the</p> <p>2 business application that the technology will be used</p> <p>3 within.</p> <p>4 Q So a license may be limited in scope based on the</p> <p>5 business application?</p> <p>6 A It may be.</p> <p>7 Q Are there other ways that you're familiar with that FICO</p> <p>8 might limit the scope of its software license?</p> <p>9 A Again, I must make it clear that this is not</p> <p>10 something -- I'm neither involved in the creation or the</p> <p>11 modification of any legal agreements, but I am aware of</p> <p>12 occasions where we have restricted based on number of</p> <p>13 applications processed.</p> <p>14 Q What do you mean by, "Applications processed"?</p> <p>15 A Number of -- so, in the example of a bank, how many</p> <p>16 credit card applications can they make per year through</p> <p>17 the software.</p> <p>18 Q Anything else? Any other limitations on scope that</p> <p>19 you're familiar with in your role at FICO?</p> <p>20 A Again, I understand that the licenses can be restricted</p> <p>21 based on geography.</p> <p>22 Q Anything else?</p> <p>23 A I believe those are the principal restrictions.</p> <p>24 Q In terms of the geographical limitations, does FICO in</p> <p>25 Europe occasionally grant software licenses that are</p> <p style="text-align: right;">Page 35</p>	<p>1 MR HINDERAKER: Objection, lack of foundation, misstates</p> <p>2 prior testimony.</p> <p>3 A So, could you repeat the question again? So ...</p> <p>4 BY MS JANUS:</p> <p>5 Q Does FICO in Europe prefer to work on opportunities that</p> <p>6 present an opportunity to generate licensing revenue for</p> <p>7 FICO in Europe?</p> <p>8 MR HINDERAKER: Same objections.</p> <p>9 A I think it's worth distinguishing between FICO in Europe</p> <p>10 and the individual people who develop that business, but</p> <p>11 for the salespeople I would say yes.</p> <p>12 BY MS JANUS:</p> <p>13 Q Okay.</p> <p>14 Are you a salesperson?</p> <p>15 A I'm a Pre-Sales Consultant.</p> <p>16 Q Is there an element of your compensation that is tied to</p> <p>17 sales that you generate?</p> <p>18 A My target is regional and collective.</p> <p>19 Q So I think that means the answer is, "Yes"?</p> <p>20 A The answer is that my target is reached through the</p> <p>21 contributions of all members of the Pre-Sales Consultant</p> <p>22 team combined.</p> <p>23 Q So, your Pre-Sales Consultant team in Europe has</p> <p>24 a target number of sales -- amount of sales that it</p> <p>25 needs to reach per quarter?</p> <p style="text-align: right;">Page 37</p>

1 **A Yes.**
2 Q And those are for sales in Europe? Is that correct?
3 **A Our region is Europe, Middle East and Africa. That's in**
4 **line with the company structure.**
5 Q So, if a license is originated in the United States,
6 your Pre-Sales division does not recognize that revenue
7 towards its target?
8 **A So that if the license -- sorry -- if the opportunity**
9 **originates --**
10 Q If there is a license that's generated in the
11 United States that does not impact your target numbers.
12 **A I believe that if it's fulfilled in the United States it**
13 **does not necessarily affect our numbers.**
14 Q Okay.
15 MR HINDERAKER: When you're at a point for a break let's
16 take one.
17 MS JANUS: Okay. Sure. Now works.
18 MR HINDERAKER: Okay.
19 VIDEOGRAPHER: Going off-the-record. The time is 10.03 am.
20 (10.03 am)
21 (A short break)
22 (10.13 am)
23 VIDEOGRAPHER: Back on the record. The time is 10.13.
24 BY MS JANUS:
25 Q Mr Clark, you understand that you're still under oath,

Page 38

1 correct?
2 **A Yes.**
3 Q Okay.
4 We talked about the fact that when you are working
5 with a client it's important for you to understand the
6 status of that client's license for software, if there
7 is one? Correct?
8 MR HINDERAKER: Objection, misstates his testimony.
9 **A Sorry, could you repeat the question please?**
10 **BY MS JANUS:**
11 Q Could you read it back?
12 (RECORD READ)
13 **A I think we discussed the need to understand what**
14 **a potential -- if there is a potential opportunity.**
15 Q Is it important, as you're assessing whether there is
16 a potential opportunity, for you to understand whether
17 the client you're working with has a license for FICO's
18 software?
19 **A In assessing whether there's an opportunity, then yes.**
20 **It is something that we try to ascertain, or the client**
21 **partner would ascertain that.**
22 Q Okay.
23 So, as you're working with a client it's important
24 for you to understand the status of that client's
25 license for FICO software, if there is such a license.

Page 39

1 Is that fair?
2 MR HINDERAKER: Asked and answered.
3 **A So, it's not always necessary. For example, with this**
4 **specific client they were located in the same building,**
5 **and so regardless of any future opportunity I was happy**
6 **to field their enquiry.**
7 **BY MS JANUS:**
8 Q You need to know the status of a client's license for
9 FICO software to be able to know what you could or
10 couldn't sell to that client in terms of software
11 licensing; correct?
12 MR HINDERAKER: Objection, asked and answered.
13 **A Sorry, do I need to answer it?**
14 **MR HINDERAKER: No, you have it try. I mean, repeat or go**
15 **over the ground --**
16 **BY MS JANUS:**
17 Q I don't agree that it was asked and answered but
18 nonetheless, yes, you do need to answer the question.
19 **A So, it's as I mentioned earlier; any opportunities are**
20 **owned by the client partner of FICO. It is their**
21 **responsibility to ascertain the license situation.**
22 Q But you, presumably, need to know the license situation
23 as well; correct? So that as you're attempting to
24 develop that business you have an understanding about
25 what business there is to develop.

Page 40

1 MR HINDERAKER: Asked and answered.
2 **A I will often be informed of the status, but it's not my**
3 **responsibility to determine the status.**
4 **BY MS JANUS:**
5 Q Sure, but it's important for you to know the status.
6 MR HINDERAKER: Asked and answered.
7 MS JANUS: He hasn't answered that, so go ahead.
8 MR HINDERAKER: Same objection.
9 **A Could you state the question in full, please?**
10 **BY MS JANUS:**
11 Q It's important for you to know the status of the license
12 so that you have an understanding of what can be sold to
13 that particular client in terms of licensing
14 opportunities.
15 MR HINDERAKER: Same objections.
16 **A That is true only if I'm engaging with the client in**
17 **order to develop an opportunity, but not true in all**
18 **cases.**
19 **BY MS JANUS:**
20 Q One of your primary responsibilities in your position as
21 a Pre-Sales Development Director is to develop
22 opportunities; correct?
23 **A That is one of my primary responsibilities.**
24 Q The scope of the license for software matters to whether
25 additional licensing revenue can be generated from that

Page 41

1 client; correct?
2 MR HINDERAKER: Objection, asked and answered.
3 **A Only in the case of that specific software product. Not**
4 **true in all cases across the FICO portfolio.**
5 **BY MS JANUS:**
6 Q Okay, so if a license for Blaze Advisor is limited
7 geographically to only certain areas then additional
8 licensing revenue may be recognized for a license of
9 Blaze Advisor to that same client in another region. Is
10 that fair?
11 MR HINDERAKER: You can answer the question to the extent
12 you know, otherwise lack of foundation.
13 **A So the license will -- yes -- any license will cover**
14 **certain areas and there may be areas which are not**
15 **covered by a license.**
16 **BY MS JANUS:**
17 Q And if that's the case then FICO can realize additional
18 licensing revenue for issuing licenses for the areas
19 that hadn't previously been covered; correct?
20 **A Potentially, yes.**
21 Q The converse is true; correct? So, if a license is
22 global or has no geographic restriction, then FICO does
23 not have the opportunity to recognize additional
24 licensing revenues for uses based on region? Is that
25 fair?

Page 42

1 **A Sorry, could you repeat the question around, "FICO does**
2 **not", please?**
3 Q FICO does not have the opportunity to recognize
4 additional revenue based on use of Blaze Advisor in
5 a particular region.
6 **A There may be opportunities for either additional**
7 **products or services.**
8 Q But that wasn't my question.
9 MR HINDERAKER: Well, it goes to the vagueness of the
10 questions.
11 BY MS JANUS:
12 Q Setting aside opportunities for other products or
13 software, with respect to the software that is the
14 subject of that global license, here Blaze Advisor,
15 there would not be opportunities for additional
16 licensing revenue for use in other regions. Is that
17 fair?
18 **A If, indeed, the license is truly without limitation then**
19 **that would be the case for that specific software**
20 **product.**
21 Q Is it fair to say that FICO prefers to issue more narrow
22 licenses so that it might maximize its ability to
23 generate additional license revenue based on expanded
24 use?
25 MR HINDERAKER: Objection, lack of foundation.

Page 43

1 **A I cannot say what FICO as a corporation overall has any**
2 **preference for.**
3 **BY MS JANUS:**
4 Q In your experience, though, is there a preference in
5 your area of business to issue more narrowly-tailored
6 licenses to maximize the ability for potential revenues
7 from future licenses?
8 MR HINDERAKER: Same objection. Lack of foundation.
9 **A I think it's -- I can say that it is in both parties'**
10 **interests, so I would say -- to have a mutually-agreed**
11 **license that benefits both parties.**
12 **BY MS JANUS:**
13 Q When did you first start working with Chubb?
14 **A Can you be more specific about what you mean by,**
15 **"Working"?**
16 Q What was your first contact with anything having to do
17 with Chubb?
18 **A I cannot recall when I first became aware at FICO that**
19 **Chubb was a customer.**
20 Q What is the first thing you can recall?
21 **A I recall they were named as a customer that was using**
22 **the software as a success story of sorts.**
23 Q What context was that in?
24 **A In the sales context.**
25 Q Describe for me what you mean as, "They were named as

Page 44

1 a customer using software".
2 **A So, in sales you need to kind of understand why**
3 **customers choose us and this client was mentioned as**
4 **a customer that was using us in an enterprise manner and**
5 **gaining benefit from the usage of our technology.**
6 Q What type of forum was this mentioned in?
7 **A I cannot recall the exact forum that this was first**
8 **mentioned in.**
9 Q Was it a presentation that you attended or an email that
10 you received?
11 **A It is most likely to have been some kind of sales**
12 **enablement, internal -- an internal call, perhaps, but**
13 **I can't recall the specific event.**
14 Q And what was the content, to the best you remember, of
15 the message relating to Chubb?
16 **A Like with most things in sales, the intention, I**
17 **understand -- the perception I had was to introduce new**
18 **people to names of customers that were using our**
19 **technology successfully.**
20 Q You said that one of the focuses was that Chubb was
21 using FICO software in an enterprise manner. What does
22 that mean?
23 **A I think anecdotally it tends to be used when any**
24 **customer is using it in more than one or two areas for**
25 **business.**

Page 45

1 Q What do you mean by, "Areas"?
2 **A You might describe them as, "Business applications of**
3 **the software", because it is general purpose.**
4 Q So, you would describe, "Enterprise manner", as using
5 the software in more than one or two business
6 applications?
7 **A That would not be my definition, but that may be how**
8 **others might loosely refer to it, one measure of**
9 **enterprise usage, whatever, "Enterprise", might mean.**
10 Q And is that your understanding of how it was being used
11 with respect to Chubb?
12 **A I understood that the -- we had a relationship with the**
13 **customer going back many years, but the software was**
14 **being used in more than one area.**
15 Q Meaning more than one business application?
16 **A That is one interpretation, yes.**
17 Q Is that what you mean by that?
18 **A Yes. Yes.**
19 Q Okay.
20 **A Yes.**
21 Q So, that was your first introduction to the Chubb name;
22 correct?
23 **A I knew of Chubb through the Chubb name, through, you**
24 **know, keys and locks and the fact that their business**
25 **was stationed in the same premises as our company, FICO,**
Page 46

1 **in London.**
2 Q What do you mean, "Keys and locks"?
3 **A Their brand is used on keys and locks.**
4 Q Okay.
5 **A I think through historic ... I'm not exactly sure.**
6 Q Okay, but this was your first exposure to Chubb being
7 a FICO client?
8 **A I believe so, yes.**
9 Q Okay.
10 Do you recall how close in time this presentation
11 was to when you started at FICO?
12 **A I don't necessarily believe it was a presentation. It**
13 **could have been a sales call or some other internal**
14 **forum, and I do not recall how close in time it may have**
15 **been to any other interactions.**
16 Q Okay.
17 What was your next experience with Chubb?
18 **A So, in 2013 the -- we had, I believe, what was an**
19 **inbound enquiry from a staff member from Chubb.**
20 Q Okay, and what do you recall about that?
21 **A So, the request came through the client partner in the**
22 **UK. I do not recall the specifics of the enquiry.**
23 Q And going back to the sales call for a moment, that you
24 mentioned, was Chubb's use of FICO software described in
25 any way during that sales call?
Page 47

1 **A So, as I said, I don't recall the form that that**
2 **communication was made in, but --**
3 Q Well, let's choose a way of referring to it. How would
4 you like to refer to it so that we don't have to use
5 something that isn't accurate?
6 **A I think we could probably refer to it as a "Sales**
7 **story".**
8 Q Okay.
9 **A Some anecdotal --**
10 Q Sure.
11 **A -- usage.**
12 Q Okay.
13 So, going back to that sales story, do you recall
14 how Chubb's use of FICO's software was described in the
15 sales story?
16 MR HINDERAKER: Objection, assumes facts not in evidence.
17 **A I do not recall that it was described in detail.**
18 **MS JANUS: Okay.**
19 **It was referenced as an enterprise -- it was being**
20 **used in an enterprise manner, but other than that you**
21 **don't recall whether it was --**
22 **A I do not recall whether the word, "Enterprise", was**
23 **used, but it was presented as an example of customer**
24 **success.**
25 Q Was an aspect of the success that it was -- that -- and
Page 48

1 was -- strike that.
2 Was the software at issue Blaze Advisor?
3 **A Yes.**
4 Q Was one aspect of the success the fact that it, Blaze
5 Advisor, was being widely used at Chubb?
6 **A As I said, the -- my perception was that it was being**
7 **used in multiple areas.**
8 Q Okay.
9 **A Whether that's wide in the context of the overall**
10 **organization I wasn't in a position to assess.**
11 Q Okay, but the fact that it was used in multiple areas
12 was viewed as a good thing by FICO? Is that fair?
13 **A Yes, if that is, indeed, how it was presented, then that**
14 **would be considered a good thing.**
15 Q Do you recall whether there was discussion during that
16 sales story about Chubb's use of Blaze Advisor in many
17 geographic regions?
18 **A I don't believe that was an aspect of the discussion.**
19 Q Okay.
20 Did you understand at the time of the sales story
21 that Chubb in Europe did, in fact, use Blaze Advisor?
22 **A That was not my perception.**
23 Q Did you have a perception one way or another on that?
24 **A I did not.**
25 Q So you just didn't know?
Page 49

1 **A I did not know.**
2 Q So the next time that you encountered Chubb during your
3 time at FICO was in 2013; correct?
4 **A That is, I believe, the next time, yes.**
5 Q And you said that you recall there was an inbound
6 enquiry from Chubb in Europe. Is that correct?
7 **A So I said that there was an enquiry that came in to --**
8 **somehow, I do not recall -- came into the client**
9 **partner.**
10 Q Okay, and who was that?
11 **A That was Richard Hill.**
12 Q And what do you recall about that?
13 **A I do not recall the details. I was -- I do not recall**
14 **the details of the enquiry.**
15 Q Okay. Did you engage with Chubb at that time?
16 **A Yes.**
17 Q Okay.
18 **A Not immediately, but at some point soon afterwards.**
19 Q When the enquiry came in, did you understand the status
20 of Chubb's license for Blaze Advisor?
21 **A Can you expand on what you mean by, "Status"?**
22 Q Did you understand whether Chubb had a license for Blaze
23 Advisor?
24 **A I did not know whether they were or were not at that**
25 **precise moment in time.**

Page 50

1 Q Okay.
2 Did you find out as you were working with Chubb
3 what -- whether Chubb had a license for Blaze Advisor?
4 **A The customer said -- our contact at Chubb said early on**
5 **in an email that they had a global license for Blaze**
6 **Advisor and that they were in contact with the team in**
7 **the US to managed that.**
8 Q So your contact at Chubb said that?
9 **A Yes.**
10 Q And this was in 2013?
11 **A I believe so, yes.**
12 Q In an email?
13 **A Yes.**
14 **MR HINDERAKER: And if you have those emails you could use**
15 **them rather than go through the memory test.**
16 **BY MS JANUS:**
17 Q Did you discuss the status of Chubb's license for Blaze
18 Advisor with your colleagues at FICO?
19 **A I had a communication from a colleague internally that**
20 **echoed what the customer had said.**
21 Q Would it be your practice to do some internal due
22 diligence about what the status of a customer's software
23 license is?
24 MR HINDERAKER: Same objection as to vagueness of status.
25

Page 51

1 BY MS JANUS:
2 Q Go ahead.
3 **A So, the question -- could you repeat the question**
4 **please?**
5 Q Would it be your practice to verify the status and the
6 scope of a client's license for FICO software internally
7 through FICO?
8 **A It would not be my responsibility to validate that.**
9 Q But would it be your practice to make sure, as you're
10 working with a client, that either the use you're
11 assisting with is already licensed or that a new license
12 would be contemplated?
13 **A So my practice would be to -- I had the same information**
14 **from the client and from an internal source. I had no**
15 **reason to doubt that information.**
16 Q Okay, and here that information was that there was
17 a global license for Blaze?
18 **A Yes.**
19 Q Who at Chubb were you working with?
20 **A This is Ewen Setti.**
21 Q Okay.
22 **A Initially.**
23 Q What did that -- what did your work with Chubb entail?
24 MR HINDERAKER: Objection, vague as to time.
25

Page 52

1 BY MS JANUS:
2 Q In the 2013 time period.
3 **A My work with Chubb in that time period was to handle the**
4 **enquiry. As I said earlier, it was -- the intention was**
5 **to understand what the customer was trying to achieve,**
6 **so I gave a presentation to Ewen on the current**
7 **capabilities of the software, because customers often**
8 **don't, themselves, keep up with what's available in the**
9 **latest version, so I saw that as a -- something I was**
10 **willing to do just to make sure the client was aware of**
11 **the current capabilities of the system.**
12 Q What was Chubb proposing to use Blaze Advisor for during
13 this time period?
14 MR HINDERAKER: Objection, assumes facts not in evidence.
15 **A So, Ewen was mentioning that they were in the course of**
16 **a project to use the system for an auto-renewals use**
17 **case.**
18 **BY MS JANUS:**
19 Q What did you understand that to mean?
20 **A I am not an insurance specialist, but my understanding**
21 **was that the system would be used to decide which**
22 **policies could be renewed without any further**
23 **underwriting and which policies would require**
24 **underwriting at the time of renewal.**
25 Q Was it your understanding at that time that Chubb in

Page 53

1 Europe was already using Blaze in certain ways?
2 **A That was my perception.**
3 Q And was that based on conversations with Mr Setti?
4 **A Yes.**
5 Q Did you also learn that from conversations with your
6 colleagues at FICO?
7 MR HINDERAKER: Objection, vague. What is, "That"?
8 **A Yes. Can you be more specific?**
9 **BY MS JANUS:**
10 Q Did you also -- did you also learn that Chubb was using
11 Blaze in Europe from your colleagues at FICO?
12 **A I did not receive that information.**
13 Q It was your understanding, I take it, that the use
14 Mr Setti was asking you about for Chubb in Europe's
15 application was within the scope of Chubb's license for
16 Blaze Advisor? Is that correct?
17 **A I was not acting to interpret the license, but I was,**
18 **based on the information Ewen was giving me, working on**
19 **the assumption that this usage was legitimate.**
20 Q What information was that?
21 **A So the -- Ewen mentioned that they were planning to use**
22 **the software for a new project, or were in the course of**
23 **doing so, and there was an implication that they were**
24 **already using it for other areas.**
25 Q And so based on the information that he was going to use
Page 54

1 the software on a new project you assumed that it was
2 allowed under the license?
3 **A The contact said quite clearly it was a global license**
4 **and that he was in contact with his colleagues in the US**
5 **who maintained that.**
6 Q You said, "The contact said"? You mean Ewen said?
7 **A Ewen wrote --**
8 Q "Ewen wrote"? Okay. Okay.
9 **A -- that.**
10 Q Okay, but also based on the information you received
11 from your colleagues at FICO did you understand that
12 Chubb's contemplated use of Blaze Advisor was within the
13 scope of the license?
14 **A That is correct. Yes.**
15 Q Okay, so it wasn't an assumption that you had simply
16 based upon comments made by Ewen Setti; correct?
17 **A Correct.**
18 Q So I'll ask the question again.
19 Was it your understanding at the time you were
20 working with Chubb in Europe that Chubb's contemplated
21 use of Blaze Advisor in Europe was within the scope of
22 Chubb's license to use Blaze Advisor?
23 MR HINDERAKER: Objection to the extent it asks for a legal
24 conclusion. Objection to the extent it misstates his
25 prior testimony.
Page 55

1 BY MS JANUS:
2 Q Go ahead.
3 **A Sorry, can you repeat the question for me?**
4 Q Do you not recall the question?
5 **A It was a long question. I want to make sure that I**
6 **answer it correctly.**
7 Q Was it your understanding at the time you were working
8 with Chubb in Europe in 2013 that the contemplated use
9 of Blaze Advisor by Chubb in Europe was within the scope
10 of Chubb's license to use Blaze Advisor?
11 MR HINDERAKER: Same objections.
12 **A The usage of a system was implied by Ewen that it was**
13 **already in place in Europe, and I made no interpretation**
14 **of the license, but I was taking what the client had**
15 **said in good faith and I saw no reason to question their**
16 **interpretation of the agreement.**
17 **BY MS JANUS:**
18 Q But you just testified that your understanding of the
19 scope of the license was based upon your colleagues at
20 FICO's statements relating to the scope of the license
21 as well; correct?
22 **A I made no interpretation of the scope of the license,**
23 **but I was told by the customer that this was global, and**
24 **the implication was that this usage was entitled.**
25 Q The implication? What do you mean by, "The implication
Page 56

1 was"?
2 **A So the customer contact mentioned that they implied that**
3 **they already had usage in Europe and the fact that they**
4 **were embarking on subsequent projects gave me no reason**
5 **to doubt their interpretation of their license.**
6 Q Okay, so your testimony is that your understanding of
7 the fact that the usage was within the scope of Chubb's
8 license for Blaze Advisor came entirely from Ewen Setti?
9 **A I was also advised internally that the scope, or the**
10 **entitlement, was a global entitlement.**
11 Q Okay, but you left that out when you say why you thought
12 the use contemplated by Chubb was within the scope of
13 the license. Why is that?
14 MR HINDERAKER: Objection, argumentative, and it also wasn't
15 left out. It was in his prior testimony.
16 MS JANUS: Please don't coach the witness.
17 MR HINDERAKER: I'm not. Please don't argue.
18 BY MS JANUS:
19 Q I'm not.
20 **A I did mention the fact I had been -- I had heard similar**
21 **from an internal source, and I also mentioned that given**
22 **the fact I had heard it, the same thing, from two**
23 **places, I had no reason to doubt the legitimacy of the**
24 **usage.**
25 Q FICO was aware, clearly, that Chubb was using the Blaze
Page 57

1 Advisor software in Europe; correct?
2 MR HINDERAKER: Objection, lack of foundation, asked and
3 answered as well.
4 **A Can you be more specific when you say, "FICO"?**
5 **BY MS JANUS:**
6 Q No.
7 **A So, individuals within FICO were aware of the**
8 **customer's -- of what the customer had said.**
9 Q What?
10 **A Others within FICO were aware of what -- the**
11 **interactions we were having with this specific contact.**
12 Q Okay, so FICO -- I mean, FICO has its knowledge from its
13 own employees, correct?
14 MR HINDERAKER: Objection, argumentative.
15 **A Sorry, could you be more specific in the question?**
16 **BY MS JANUS:**
17 Q We'll come back to that.
18 In 2013 you worked with Mr Setti on the proposed use
19 of Blaze for auto-renewals; correct?
20 **A When I spoke to Ewen I'm not even sure it was proposed.**
21 **I believe it was in progress.**
22 Q Okay.
23 How long did you work with Mr Setti on that project?
24 MR HINDERAKER: Could you be more clear about what, "That",
25 means?

Page 58

1 BY MS JANUS:
2 Q Okay. The project you were working on in 2013, how
3 would you describe that project?
4 **A I think the word, "Project", implies a fixed commitment.**
5 **My interactions with Ewen were ad hoc and designed to**
6 **help him with any questions he had around the wider**
7 **capabilities of the technology.**
8 Q Did you view Chubb as a valuable client of FICO's?
9 **A Yes, on the basis that any customer that's referenced**
10 **internally is one that we need to give a quality service**
11 **to.**
12 Q What do you mean, "Any customer that's referenced
13 internally"?
14 **A I mentioned earlier that they were -- that the brand was**
15 **used as a sales story, and, therefore, any customer that**
16 **is seen as a success ought to be given a level of**
17 **attention which is in line with their value to the**
18 **company.**
19 Q How long did you work with Mr Setti on the questions
20 that he was raising with you in the 2013 time period?
21 **A "How long", meaning?**
22 Q Was there a period of time during which you were working
23 with him more, you know, on a more involved basis?
24 **A No. It was ad hoc interactions.**
25 Q Okay. Did you meet with people at Chubb?

Page 59

1 **A In which time period are we referring?**
2 Q 2013 -- well, you tell me. I'm trying to get a sense of
3 what your work with Chubb involved, so you said that in
4 2013 you began working with them based on an enquiry
5 that they had, and I'm trying to understand what your
6 work involved.
7 MR HINDERAKER: Timeframe again? 2013?
8 BY MS JANUS:
9 Q Yes.
10 **A I met with Ewen Setti at least once during 2013.**
11 Q What was the purpose of that meeting?
12 MR HINDERAKER: Asked and answered. Go ahead.
13 **A Yes. As I mentioned earlier, I presented him with**
14 **a high level overview of the current capabilities of the**
15 **software.**
16 **BY MS JANUS:**
17 Q Okay.
18 What happened next in terms of your dealings with
19 Chubb?
20 **A I believe, from memory, that there was a series of**
21 **emails where -- again, ad hoc -- Ewen would ask a**
22 **question, I would write back with a response.**
23 Q Okay. What happened next?
24 **A I believe there was a period where I didn't hear from**
25 **Ewen for some time, but that's fine. You know, it**

Page 60

1 **wasn't a -- I was there to help rather than to -- for**
2 **any other reason.**
3 Q Okay, and was there another period after that when you
4 were dealing with Chubb in Europe more regularly?
5 **A Yes. I invited Ewen to a launch event of a new product**
6 **that we had in London -- I believe that was 2014 -- and**
7 **Ewen invited a colleague of his, Hamish Duncan.**
8 Q What product was that?
9 **A This was the FICO Decision Management platform.**
10 Q Is that what it was called?
11 **A That is and was the name of the product.**
12 Q Okay. What occurred next?
13 **A My memory is hazy of the exact sequence of events.**
14 **There were fairly intermittent contacts that happened**
15 **over a long period of time.**
16 Q Were you the main point of contact between FICO in
17 Europe and Chubb in Europe?
18 **A I have no way of knowing what other interactions were**
19 **taking place with that particular customer --**
20 Q Okay.
21 **A -- at that time.**
22 Q Based on your knowledge, were you the person at FICO in
23 Europe who had the most contact, direct contact, with
24 Chubb in Europe?
25 MR HINDERAKER: Objection, lack of foundation.

Page 61

1 **A I'm unable to quantify the time I spent and compare it**
2 **to what others may have spent with the same customer.**
3 **BY MS JANUS:**
4 Q Okay, so based on your knowledge though, I'm not asking
5 you to testify as to things you don't know, all I'm
6 asking you is based on what you know are you the person
7 at FICO in Europe who had the most contact with Chubb in
8 Europe?
9 MR HINDERAKER: Same objection, lack of foundation.
10 **A Yes, I think I'm unable to give an accurate answer to**
11 **that question.**
12 **BY MS JANUS:**
13 Q Do you know of anyone else at FICO in Europe who had
14 direct contact with Chubb in Europe?
15 **A During which time period?**
16 Q During your entire time at FICO?
17 **A Yes. There will have been others.**
18 Q What are the contacts that you are aware of?
19 **A So there was the event, it was a public event we invited**
20 **the customer to, and there would have been many FICO**
21 **attendees.**
22 Q At the 2014 Decision Management event?
23 **A Yes. That's correct.**
24 Q Okay.
25 **A The Decision Management platform.**

Page 62

1 Q Okay. What other contacts between people at FICO in
2 Europe and people at Chubb in Europe are you aware of?
3 **A Primarily interactions between the salespeople, the**
4 **client partner specifically, but also the -- what we at**
5 **the time called, "Account Executives", who are**
6 **specialist sales representatives.**
7 Q And so who are those people? You mentioned Richard
8 Hill?
9 **A Richard Hill is the client partner.**
10 Q Mm-hmm? Who else at FICO in Europe had contact, direct
11 contact, with Chubb in Europe?
12 **A The Account Executives, Andy Moffatt, Ross Smith.**
13 Q R-O-S-S?
14 **A Yes.**
15 Q Anyone else?
16 **A Also I'm aware of a colleague, Larry Jacobson, who**
17 **attended one of the meetings I had with Chubb.**
18 Q Okay. Anyone else?
19 **A Yeah, I -- knowing who attended the event it could have**
20 **been a number of others who sort of interacted with the**
21 **customer.**
22 Q Okay. Excluding attendance at a public event, are you
23 aware of anyone else who was communicating with Chubb in
24 Europe?
25 **A I'm not aware of anybody -- I can't recall anybody else**

Page 63

1 **specifically.**
2 Q Okay. Andy Moffatt you said is an account executive?
3 **A He was the Insurance Specialist Account Executive at the**
4 **time.**
5 Q Is he still employed at FICO?
6 **A No.**
7 Q Where is he?
8 **A I do not know.**
9 Q Ross Smith? Was he also an account executive?
10 **A He was, yes. Yes.**
11 Q And is he still at FICO?
12 **A He is.**
13 Q What is his role?
14 **A He's now a client partner.**
15 Q Larry Jacobson. What is his role?
16 **A He's a Pre-Sales Consulting specialist in the insurance**
17 **sector.**
18 Q Richard Hill was the client partner. Is that correct?
19 **A Yes.**
20 Q Is he still at FICO?
21 **A No.**
22 Q Where is he?
23 **A I do not know.**
24 Q When was the last time you were in touch with him?
25 **A It must have been maybe about six months after he left.**

Page 64

1 Q When was that?
2 **A I cannot recall the precise date.**
3 Q Give me a ballpark. When did he leave FICO?
4 **A I cannot recall a precise date. We have -- it must be**
5 **50 -- 40-60 -- salespeople, regional salespeople, so**
6 **information is -- I can't recall what the precise date**
7 **was.**
8 Q Sure. I'm not asking for a precise date, but was it
9 within the last year? Was it within the last two years?
10 **A It was not within the last year.**
11 Q Prior to?
12 **A Prior to --**
13 Q Okay.
14 **A -- a year.**
15 Q And you do not know where he went after he left FICO?
16 **A Oh, I believe he went to a company after FICO that he is**
17 **no longer working for.**
18 Q What company was that?
19 **A I think it was called, "Pin Drop".**
20 Q Do you know where he's located?
21 **A In what respect?**
22 Q Where he resides?
23 **A He lives in South-West London.**
24 Q Have you emailed with Mr Hill since he left?
25 MR HINDERAKER: About? Objection, irrelevant.

Page 65

<p>1 BY MS JANUS:</p> <p>2 Q That's not a proper objection, but go ahead.</p> <p>3 A I have contacted him, yes. As I said, I believe the</p> <p>4 last time was probably around six months after he left,</p> <p>5 in my recollection.</p> <p>6 Q Okay, so when you say you've contacted him, my question</p> <p>7 was have you emailed with Mr Hill.</p> <p>8 MR HINDERAKER: Same objection.</p> <p>9 A Yes, I believe I have emailed him.</p> <p>10 BY MS JANUS:</p> <p>11 Q Okay.</p> <p>12 A I don't have any other contact.</p> <p>13 Q Okay, so when -- so you haven't had phonecalls with him,</p> <p>14 you've just emailed with him after he left?</p> <p>15 A Yes.</p> <p>16 Q Okay. Have you texted with him?</p> <p>17 A No.</p> <p>18 Q Have you emailed with him at all on the topic of Chubb?</p> <p>19 A I don't recall that I would have.</p> <p>20 Q So is that a, "No", or you just don't remember whether</p> <p>21 you did?</p> <p>22 A I don't remember and nor do I see why I would have.</p> <p>23 Q Okay. All right. After -- you said that there was this</p> <p>24 2014 event that you invited representatives of Chubb to,</p> <p>25 and you continued to work with Chubb in Europe through</p> <p style="text-align: right;">Page 66</p>	<p>1 Q Okay. What did Mr Sawyer tell you?</p> <p>2 A I cannot recall the specific wording.</p> <p>3 Q Without recalling the specific wording, what was the</p> <p>4 substance of what Mr Sawyer told you to the best of your</p> <p>5 recollection?</p> <p>6 MR HINDERAKER: Counsel, do you want to present him the</p> <p>7 emails that you have or do you want to continue the</p> <p>8 memory test?</p> <p>9 A I cannot recall the specific wording that he used.</p> <p>10 BY MS JANUS:</p> <p>11 Q Right. So, I'm not asking you to recall the specific</p> <p>12 wording, I'm asking for your recollection of what</p> <p>13 Mr Sawyer told you, in substance.</p> <p>14 A From memory, I recall he mentioned there was some legal</p> <p>15 action taking place between the two parties.</p> <p>16 Q That's all you recall?</p> <p>17 A Yes. I'm not legally trained, so I -- what I took away</p> <p>18 from the communication was that it would affect future</p> <p>19 discussions with the customer.</p> <p>20 Q Okay, so you don't recall what he said the basis for</p> <p>21 that legal dispute was?</p> <p>22 A I believe the basis was around the license of the</p> <p>23 software.</p> <p>24 Q Clearly, but any more than just around the license for</p> <p>25 the software?</p> <p style="text-align: right;">Page 68</p>
<p>1 2015; correct?</p> <p>2 A That's right, again on an ad hoc basis. Nothing of a</p> <p>3 fixed commitment.</p> <p>4 Q Okay. Did you understand that while you were working</p> <p>5 with Chubb on an ad hoc basis Chubb was, in fact,</p> <p>6 working with Blaze in Europe?</p> <p>7 MR HINDERAKER: Objection, asked and answered.</p> <p>8 A Yes. As previously mentioned, that was my</p> <p>9 understanding.</p> <p>10 BY MS JANUS:</p> <p>11 Q At a certain point did you come to understand that there</p> <p>12 was a conflict between FICO and Chubb?</p> <p>13 A Could you define, "Conflict"?</p> <p>14 Q Do you not understand the question?</p> <p>15 A "Conflict", implies, or can mean, many different things</p> <p>16 so I was asking for a clarification on the question.</p> <p>17 Q Okay. Did you come to understand that there was</p> <p>18 a conflict about Chubb's license for use of Blaze?</p> <p>19 A I was advised at one point that there was some form of</p> <p>20 legal process, yes.</p> <p>21 Q Okay, and tell me what you recall about that.</p> <p>22 A So, I recall it was in 2016, and I was advised by Mike</p> <p>23 Sawyer from the US that something was happening which</p> <p>24 meant we would have to -- that may affect interactions</p> <p>25 with the customer.</p> <p style="text-align: right;">Page 67</p>	<p>1 A I couldn't accurately say from memory.</p> <p>2 Q Okay, and you had dealt with Mr Sawyer on previous</p> <p>3 occasions; correct?</p> <p>4 A I had emailed him and spoken once, but I did not know</p> <p>5 him.</p> <p>6 Q Okay. On the occasions that you had dealt with</p> <p>7 Mr Sawyer previously, did those involve issues relating</p> <p>8 to Chubb's use of Blaze Advisor in Europe?</p> <p>9 A I cannot recall if specifically it was he who was</p> <p>10 involved in those discussions.</p> <p>11 Q But you were involved in discussions about Chubb's use</p> <p>12 of Blaze Advisor in Europe with FICO employees in the</p> <p>13 United States?</p> <p>14 A Yes. Yes.</p> <p>15 Q Who were you involved in those conversations with?</p> <p>16 A So, at the time, a gentleman called Russ Schreiber who</p> <p>17 was the Global Practice Lead for insurance at FICO.</p> <p>18 Q What were your dealings with Mr Schreiber?</p> <p>19 A Again, similar to Mr Sawyer -- ad hoc enquiries and</p> <p>20 communications over email. Nothing verbal.</p> <p>21 Q Okay, and those communications would have related to</p> <p>22 Chubb's use of the Blaze Advisor software in Europe?</p> <p>23 MR HINDERAKER: Objection, assumes facts.</p> <p>24 A The email communications related to discussions that</p> <p>25 were being had with Chubb in Europe.</p> <p style="text-align: right;">Page 69</p>

1 **BY MS JANUS:**
2 Q And Chubb's use of Blaze Advisor in Europe?
3 **A They were related to Chubb's use of Blaze Advisor in**
4 **Europe.**
5 **MR HINDERAKER: Is this a good time for a break, or are you**
6 **on a new topic, or ...**
7 **MS JANUS: That's fine.**
8 **MR HINDERAKER: Okay. Let's do that. We've been going for**
9 **an hour or so.**
10 **VIDEOGRAPHER: Going off-the-record. The time is 11.14 am.**
11 (11.14 am)
12 (Short adjournment)
13 (11.22 am)
14 VIDEOGRAPHER: Back on the record. The time is 11.22 am.
15 **BY MS JANUS:**
16 Q Mr Clark, do you understand you're still under oath?
17 **A Yes.**
18 Q I've handed you what's been marked as deposition Exhibit
19 46. Could you take a moment to familiarize yourself
20 with the document?
21 (Exhibit 46 marked for identification)
22 **A Okay. (Pause)**
23 Q You've reviewed it?
24 **A Yes.**
25 Q Okay. So, this is an email chain that was forwarded to

Page 70

1 you on August 28, 2012. Is that correct?
2 **A It appears to be the case, yes.**
3 Q Okay.
4 Is this one of the documents you reviewed in
5 preparation for your deposition?
6 **A It is not.**
7 Q Who is Oliver Brynteson?
8 **A He, at the time, was a lead development consultant whose**
9 **responsibility it was to generate leads for the sales**
10 **force.**
11 Q Do you believe this was your first communication
12 relating to Chubb while you were at FICO?
13 **A I must be honest -- I don't recall receiving this email.**
14 Q Okay, so fair to say you don't recall communications
15 around this time relating to Chubb generally?
16 **A I must say I don't.**
17 Q Okay. Do you have an idea as to why Mr Brynteson
18 forwarded the email to you?
19 **A At the time we sat very close to each other. I think**
20 **back-to-back. It may have just been as an FYI, I think.**
21 Q Okay, and do you recall having any conversations with
22 Mr Brynteson about Chubb at that time?
23 **A I do not recall.**
24 Q In the email that -- am I saying his name correctly?
25 **A "Brinson".**

Page 71

1 Q "Brinson".
2 **A "Brin-tison".**
3 Q "Brin-tison"? Thank you.
4 In the email that Mr Brynteson wrote, just below the
5 one that he forwarded to you, do you see that he's
6 referencing a meeting that he had with individuals from
7 Chubb Personal Lines?
8 **A The email does state he met with the client.**
9 Q Okay, and then in the paragraph below that Mr Brynteson
10 states:
11 "As Blaze is already in the company and is well
12 liked they are keen to go down that route rather than
13 pull in another solution that will need to go through
14 the US for approval and more than likely take 2 years
15 before anything happens".
16 Do you see that?
17 **A Yes.**
18 Q So was it your understanding at the time you received
19 this email that Blaze was already in Chubb Europe?
20 **MR HINDERAKER: Objection, misstates prior testimony, lack**
21 **of foundation.**
22 **A I do not recall that when I received his email I had any**
23 **thought about usage within Europe or elsewhere.**
24 **BY MS JANUS:**
25 Q Okay, so you just don't recall reading the email or

Page 72

1 having an understanding on that?
2 **A I do not recall receiving this email.**
3 Q Fair to say, though, that Mr Brynteson at least
4 understood that, according to his email?
5 **MR HINDERAKER: Objection, calling for testimony about**
6 **others' intentions, lack of foundation.**
7 **A Sorry, could you clarify what you mean by asking what he**
8 **understood?**
9 **MR HINDERAKER: We're willing to stipulate that the email**
10 **says what it says.**
11 **BY MS JANUS:**
12 Q Sure.
13 Mr Brynteson goes on and says:
14 "They clearly need guidance on our offering and are
15 keen for FICO to be involved in this process".
16 Do you see that?
17 **A Yes. That is written.**
18 Q And then he says:
19 "It could present opportunities to sell additional
20 software/upgrade (depending what is included in their
21 Blaze ELA), consultancy and training".
22 Do you see that?
23 **A I can see that.**
24 Q So there Mr Brynteson is identifying what he believes
25 the opportunities are to generate revenue from Chubb?

Page 73

1 MR HINDERAKER: Object to the question as asking for this
2 witness to testify about the subjective intentions of
3 Mr Brynteson.
4 BY MS JANUS:
5 Q That's a coaching objection. Please limit your
6 objections.
7 Go ahead.
8 **A Sorry, could you repeat the question again?**
9 Q Mr Brynteson is identifying opportunities to generate
10 additional revenue from Chubb.
11 **A Mr Brynteson is, at a high level, giving some idea of**
12 **what that could be, but he is also, as is his job, to**
13 **produce leads for the sales force, so I -- he is --**
14 **yeah. That is his job, is to present potential leads to**
15 **the sales force and have them accepted by the sales**
16 **force.**
17 Q What does the, "Blaze ELA", mean?
18 MR HINDERAKER: Object to the extent of lack of foundation
19 in terms of Mr Brynteson's meaning.
20 BY MS JANUS:
21 Q Do you know what the term, "Blaze ELA", means, based on
22 your position at FICO?
23 **A I do not know what Oliver Brynteson meant by that, but**
24 **an ELA in abstract is an Enterprise License Agreement.**
25 Q If you look earlier on in the email chain that was

Page 74

1 forwarded to you we can see the bottom of the
2 second-to-last page, there is an email from Mark Wilson
3 at Chubb to Gary Lawrence. Do you see that?
4 MR HINDERAKER: Bates number please?
5 MS JANUS: FICO2019. (Pause)
6 MR HINDERAKER: Is that what she's asking you?
7 **A This is the communication of 2.49 pm on 13 August?**
8 **BY MS JANUS:**
9 Q Yes. Do you see that?
10 **A An email from Mark to Gary?**
11 Q So it appears that Chubb is making -- is Gary Lawrence
12 someone at FICO?
13 **A He was, in the same role as Oliver Brynteson, a lead**
14 **generation --**
15 Q Okay, so it appears that on August 13, 2012 Mark Wilson
16 at Chubb enquired of Gary Lawrence at FICO relating to
17 the use of Blaze; correct?
18 **A The email implies that the -- he wants to see whether**
19 **the system can be used for a POC, a Proof of Concept.**
20 Q And what is a Proof of Concept in general terms?
21 **A It's a loosely-used term that can mean anything from**
22 **a demonstration based on the customer's example to**
23 **a more rigorous test of the software's capabilities.**
24 Q And is that something that you would be involved in?
25 A Proof of Concept?

Page 75

1 **A Yes. Sometimes, yes.**
2 Q What would your involvement generally be with a Proof of
3 Concept?
4 **A So, we can take customer examples and place them within**
5 **the software. That's in the loosest sense of what POC**
6 **is, what might be involved.**
7 Q Okay, so there's this enquiry on August 13, 2012 from
8 Chubb to FICO relating to Blaze; correct?
9 **A Sorry, 13 August?**
10 Q Yes, 2012?
11 **A Yes.**
12 Q Okay. Would you expect that at that time FICO would
13 make a determination about whether Chubb in Europe has
14 a license to use Blaze?
15 MR HINDERAKER: Objection, lack of foundation.
16 **A I cannot answer based on what these people in the**
17 **distribution list may have done or not done.**
18 **BY MS JANUS:**
19 Q Okay, so you just don't know?
20 **A I do not know if a determination was made. I don't**
21 **recall a determination being made.**
22 Q Okay, but my question was a little bit different than
23 that. It's just based on your position at FICO would
24 you expect that that would be the next step that FICO
25 would take, would be to determine if there is a license

Page 76

1 for Chubb Europe to use Blaze, what the scope of that
2 license is, et cetera.
3 MR HINDERAKER: Object to lack of foundation, also asked and
4 answered about an hour-and-a-half ago.
5 **A I would not have necessarily thought that that**
6 **determination would have happened -- would happen**
7 **straight away.**
8 **BY MS JANUS:**
9 Q But it's possible?
10 **A It's possible, yes.**
11 Q Okay. I'm showing you what has been marked as Exhibit
12 47.
13 (Exhibit 47 marked for identification)
14 This is a series of emails that begin on the second
15 page of the document. The first one is dated August 14,
16 2012 which is one day after the email that we just
17 reviewed in Exhibit 46; correct? (Pause)
18 We're waiting for you to review the document. Have
19 you done so?
20 **A I've read the document, yes.**
21 Q Okay. Do you recall my question?
22 **A Could you repeat the question?**
23 Q The first email in this chain is on the second page of
24 the document; correct?
25 **A Yes.**

Page 77

<p>1 Q And that email is from Richard Hill to Russ Schreiber 2 dated August 14, 2012; correct? 3 A Correct. 4 Q That is one day after the email that we reviewed dated 5 August 13, 2012 in which Chubb reached out to FICO about 6 using Blaze in Europe; correct? 7 A Yes. It was the day after. 8 Q Okay. Looking at Exhibit 47, the first email in the 9 chain is from Mr Hill to Mr Schreiber. Mr Hill writes: 10 "Chubb UK have started being interested in Blaze 11 (again) and I'll try and speak with the new contact who 12 apparently wants to do a POC for underwriting"; correct? 13 MR HINDERAKER: We'll stipulate what the document says. 14 BY MS JANUS: 15 Q Please answer my question. 16 A That is what the document says. 17 Q And, "POC", is Proof of Concept? 18 A I would assume so in this case, yes. Yes. 19 Q Mr Hill goes on to say: 20 "Let me know if anything has changes ..." 21 I assume he means, "Changed": 22 "... good or bad -- and more importantly whether we 23 can actually sell anything new here as I seem to 24 remember their US Blaze license allowed them the 25 software for free".</p> <p style="text-align: right;">Page 78</p>	<p>1 MR HINDERAKER: Clarification as to time? In the context of 2 47 or any time? 3 BY MS JANUS: 4 Q At any time. 5 A I do not recall specifically verbally discussing this 6 topic with Richard. 7 Q Was Mr Hill unhappy about the fact that FICO Europe 8 didn't have the opportunity to generate licensing 9 revenues from Chubb Europe's use of Blaze software? 10 MR HINDERAKER: Objection, lack of foundation, 11 argumentative. 12 A I don't know whether -- I think, "Unhappy", is 13 a subjective term. I don't think it's -- 14 BY MS JANUS: 15 Q Sure. That's fair. Let me rephrase. 16 Did Mr Hill ever express to you unhappiness or 17 dissatisfaction about the fact that FICO Europe didn't 18 have the opportunity to generate licensing revenue from 19 Chubb Europe's use of Blaze? 20 A I cannot recall a specific time where that happened, 21 but, you know, he was often in the office and perhaps he 22 could have mentioned the fact -- what he's talking about 23 here. 24 Q And that it was disappointing to him that Chubb Europe, 25 or FICO Europe, couldn't generate that revenue?</p> <p style="text-align: right;">Page 80</p>
<p>1 Do you see that? 2 A That is what the document says. 3 Q Okay, so Mr Hill here is asking Mr Schreiber whether 4 there is anything FICO in Europe can actually sell to 5 FICO -- to Chubb in Europe; correct? 6 MR HINDERAKER: Objection, lack of foundation, the witness 7 is not on this email chain. Object to asking for 8 characterization of other people's intentions, lack of 9 foundation. 10 BY MS JANUS: 11 Q That's a speaking and coaching objection. Please limit 12 your objections according to the rules. You can go 13 ahead and answer. 14 A He appears to be asking what can be sold in terms of new 15 licenses. 16 Q Okay, and it looks like his recollection was that the US 17 Blaze license allowed Chubb Europe the software for 18 free; correct? 19 MR HINDERAKER: Same objections. 20 A I cannot comment beyond anything that's written here by 21 Richard Hill. 22 BY MS JANUS: 23 Q Sure. Did you discuss with Mr Hill orally that Chubb's 24 enterprise license for Blaze covered Europe's use? 25 Covered Chubb Europe's use of Blaze?</p> <p style="text-align: right;">Page 79</p>	<p>1 MR HINDERAKER: Same objection, lack of foundation, 2 argumentative. 3 BY MS JANUS: 4 Q To be clear, I'm talking about his expressions to you. 5 You mentioned that he made statements to you on this 6 topic. 7 MR HINDERAKER: That's a misstatement of prior testimony. 8 Object on that basis. 9 A Yes, I didn't mention that he did verbally communicate 10 those things to me, but I said that I cannot recall, and 11 with him being in the office frequently it wouldn't 12 surprise me if he had, but I do not recall any specific 13 occasions. 14 BY MS JANUS: 15 Q Okay. Mr Schreiber responds to Mr Hill within an hour 16 or -- I guess, just over an hour of Mr Hill's email; 17 correct? 18 A That is what the document shows. 19 Q And he states: 20 "They do have a Blaze ELA"; correct? 21 A That is what is written here. 22 Q Okay, and then he ends the email by saying: 23 "Check [with] Mike Sawyer on the lay of the land". 24 Correct? 25 A That is what's written in the document.</p> <p style="text-align: right;">Page 81</p>

1 Q Then Mr Sawyer responds within an hour of Mr Schreiber's
2 email and states:
3 "Richard..."
4 I'm on the bottom of the first page of Exhibit 47.
5 Are you with me?
6 **A Yes.**
7 Q He says:
8 "Richard, I am the CP for Chubb".
9 Is, "CP", " Client partner"?
10 **A That is what, "CP", is abbreviated to, yes.**
11 Q "They do have a Global ELA for Blaze and have an
12 automated [underwriting] Application running in the UK
13 already".
14 Did you see that?
15 **A Yes. That's written in the document.**
16 Q Okay, so at this time on August 14 of 2012 FICO was
17 aware that Chubb Europe was using Blaze software;
18 correct?
19 MR HINDERAKER: Object to the scope of the question with
20 respect to global FICO. Stipulate that Mr Sawyer says
21 what he says in the email.
22 **A Yes, so Mike Sawyer does say that they have an**
23 **underwriting application running in the UK already.**
24 **BY MS JANUS:**
25 Q And that Chubb has a global ELA for Blaze; correct?

Page 82

1 **A That is what's written here.**
2 Q Okay, and these are -- that's internal communications at
3 FICO, correct?
4 **A This email is between three FICO employees at the time.**
5 Q And the purpose of Mr Hill's enquiry as he has stated it
6 is to understand what he can sell, what FICO Europe can
7 sell, to Chubb Europe; correct?
8 MR HINDERAKER: Objection, argumentative and lack of
9 foundation.
10 **A He was checking with his colleagues in the US who had**
11 **more daily dealings with the Chubb account.**
12 **BY MS JANUS:**
13 Q About what we can actually sell as FICO Europe?
14 **A He asks if, "We", can sell anything new.**
15 Q All right, and then in the next email up Mr Hill, in the
16 last sentence, says to Mr Sawyer:
17 "Do you know any ..."
18 Strike that:
19 "Do you know more about the UW app ..."
20 Referring to the underwriting app:
21 "... in the UK as that's a new one to me".
22 MR HINDERAKER: Counsel, what page are you on?
23 MS JANUS: The middle of the first page --
24 MR HINDERAKER: Thank you.
25

Page 83

1 BY MS JANUS:
2 Q -- of Exhibit 47, the last line in the middle email.
3 Did you see that?
4 **A Yes.**
5 Q Okay, so according to Mr Hill's email FICO Europe hadn't
6 known about, or at least Mr Hill hadn't known about
7 Chubb Europe's previous use of Blaze at that time. Is
8 that a fair conclusion?
9 MR HINDERAKER: I object, lack of foundation.
10 **A It appears as if Richard was unaware of this.**
11 **BY MS JANUS:**
12 Q And he was the client partner for Chubb Europe; correct?
13 **A I do not know whether it was a named account for Richard**
14 **Hill.**
15 Q Meaning?
16 **A His remit was, I believe, at the time, covering**
17 **non-banking clients in the UK -- I believe -- so it may**
18 **not have been the case that he was named to Chubb, but**
19 **it did fall -- may have fallen under his remit in that**
20 **capacity.**
21 Q By, "Remit", you mean sort of general area of
22 responsibility?
23 **A As a salesperson, yes.**
24 Q I'm showing you what's been marked as Exhibit 48.
25 (Exhibit 48 marked for identification)

Page 84

1 I'm going to ask you some questions about this chain
2 of emails. Take a moment to review and please let me
3 know when you've finished reviewing it.
4 **A Okay. (Pause)**
5 **Okay, I've reviewed the document.**
6 Q At the bottom of the first page of Exhibit 48 there is
7 an email from Ewen Setti to Richard Hill dated August
8 28, 2013; correct?
9 **A Correct.**
10 Q And he states that he got Mr Hill's email address from
11 Matthew Male and Mark Wilson:
12 "... in our Personal Lines IT team".
13 Do you see that?
14 **A That is what the document says.**
15 Q And, to refresh your recollection, when we were looking
16 at Exhibit 46 which is the first email you looked at, it
17 was Mark Wilson at Chubb who was corresponding with FICO
18 about the Personal Lines; correct? I direct you to --
19 **A Yes. It was Mark Wilson who was communicating in**
20 **Exhibit 46.**
21 Q Okay, so we carry that through, then. It looks like,
22 Mark Wilson gave Mr Setti Mr Hill's contact information,
23 according to this email; correct?
24 **A That appears to be the case.**
25 Q Mr Setti identifies that he works for the Commercial

Page 85

<p>1 Lines IT team at Chubb in London, and that they're</p> <p>2 embarking on their first rules project:</p> <p>3 "... which involves migrating some low touch/no</p> <p>4 touch renewal rules from their current Oracle</p> <p>5 stored-procedure implementation over it Blaze Advisor".</p> <p>6 You see that?</p> <p>7 A That's what it says, yes.</p> <p>8 Q So Mr Setti is writing an email to FICO explaining that</p> <p>9 Chubb in Europe is expanding its use of the Blaze</p> <p>10 software; correct?</p> <p>11 MR HINDERAKER: Objection, lack of foundation.</p> <p>12 A So, it says here that his team, or he -- "We" -- are</p> <p>13 embarking on their first rules project.</p> <p>14 BY MS JANUS:</p> <p>15 Q Okay, so they're contemplating using Blaze in a way that</p> <p>16 they hadn't used Blaze before; correct?</p> <p>17 MR HINDERAKER: Objection, lack of foundation.</p> <p>18 A I would say it's open to interpretation as to what,</p> <p>19 "Embarking on their first project", means. It doesn't</p> <p>20 necessarily exclude any other existing usage.</p> <p>21 BY MS JANUS:</p> <p>22 Q He's writing an email -- Chubb Europe is writing an</p> <p>23 email to FICO talking about wanting to use Blaze in</p> <p>24 Chubb Europe in a way that they're not currently using</p> <p>25 it, or expanding it to another use. Is that fair?</p> <p style="text-align: right;">Page 86</p>	<p>1 How did you interpret that?</p> <p>2 A I think his sentence explains itself in that he explains</p> <p>3 that the upside is likely to be limited to professional</p> <p>4 services.</p> <p>5 Q The upside in terms of revenue generation?</p> <p>6 A Near term revenue. Revenue.</p> <p>7 Q Okay, and then in the middle of the sentence he has a:</p> <p>8 " ... (thanks Russ Schreiber) ..."</p> <p>9 And there is a capital L there. Do you see that?</p> <p>10 A Yes.</p> <p>11 Q Do you know why there's a capital L there?</p> <p>12 A No.</p> <p>13 Q Did he have a little smiley face image there?</p> <p>14 A I don't know what --</p> <p>15 MR HINDERAKER: Objection, lack of foundation, asks for</p> <p>16 speculation.</p> <p>17 BY MS JANUS:</p> <p>18 Q Do you still have this email in your Chubb email folder?</p> <p>19 A I don't remember seeing it. I don't remember seeing it.</p> <p>20 Q Okay, so it's possible that you still have it?</p> <p>21 A Yeah. I did lose some emails. I think they got</p> <p>22 misarchived, or something, but ...</p> <p>23 Q Okay, so it's possible that you have it, it's possible</p> <p>24 that you don't.</p> <p>25 A Well, I would have received it but at the time we were</p> <p style="text-align: right;">Page 88</p>
<p>1 MR HINDERAKER: Objection, argumentative, lack of</p> <p>2 foundation.</p> <p>3 A Yes, Ewen Setti appears to be communicating that he's</p> <p>4 embarking on a new project.</p> <p>5 BY MS JANUS:</p> <p>6 Q Then Mr Hill forwards the email to you on October 28,</p> <p>7 2013; correct?</p> <p>8 A On August -- 28 August --</p> <p>9 Q Thank you.</p> <p>10 A -- 2013.</p> <p>11 Q Thank you, and he says:</p> <p>12 "Hi Olly, do you fancy playing with these guys too?"</p> <p>13 I take it he's sort of saying, "Do you want to work</p> <p>14 with Chubb Europe"?</p> <p>15 MR HINDERAKER: Objection, lack of foundation.</p> <p>16 BY MS JANUS:</p> <p>17 Q Is that how you interpreted that statement?</p> <p>18 A It's unclear what he means exactly by that statement.</p> <p>19 Q "To set expectations, they already have a Blaze global</p> <p>20 ELA (thanks Russ Schreiber...) so the best we will get</p> <p>21 is some PS although they do have their own IT team I</p> <p>22 doubt they know what they are doing".</p> <p>23 Do you see that?</p> <p>24 A That is what's written in the document.</p> <p>25 Q What do you take that to mean, to, "Set expectations"?</p> <p style="text-align: right;">Page 87</p>	<p>1 using an email back-up system which has now been</p> <p>2 decommissioned, so it may have been -- it may no longer</p> <p>3 be accessible to me.</p> <p>4 Q I'm just trying to understand, but are you saying you</p> <p>5 don't know whether you have it in your email folder or</p> <p>6 that you do not have it in your email folder?</p> <p>7 A I don't believe I have it in my email folder.</p> <p>8 Q Okay, and you base that conclusion on the fact that it</p> <p>9 was not one of the emails you reviewed in preparation</p> <p>10 for the deposition?</p> <p>11 A Yes.</p> <p>12 Q Do you interpret Mr Hill's statement in the parentheses,</p> <p>13 "Thanks Russ Schreiber", to be sarcastic?</p> <p>14 A I cannot interpret it as that, based on what I see here.</p> <p>15 Q Do you think that the -- did you interpret the point of</p> <p>16 his statement to be, "Unfortunately they already have</p> <p>17 a Blaze global ELA and that's due to Russ Schreiber"?</p> <p>18 A Yes, Russ's role was as global insurance practice lead,</p> <p>19 so Richard was setting expectations, as he says here,</p> <p>20 around what this could possibly lead to.</p> <p>21 Q And then he says:</p> <p>22 "PS ..."</p> <p>23 Oh, I'm sorry:</p> <p>24 "... some PS ..."</p> <p>25 Is that, "Professional Services"?</p> <p style="text-align: right;">Page 89</p>

<p>1 A Yes. That's Professional Services.</p> <p>2 Q And just describe in general terms what, "Professional</p> <p>3 Services", means in this context.</p> <p>4 A Professional Services can be -- used to deploy our</p> <p>5 software, but also to do things like conduct current</p> <p>6 state assessments and perform business analysis as</p> <p>7 a precursor to any project.</p> <p>8 Q Does this refresh your recollection that the first time</p> <p>9 you received information about the scope of the Blaze</p> <p>10 license that Chubb had was actually from Mr Hill at</p> <p>11 FICO?</p> <p>12 A Yes, that would -- sorry, you asked the scope of the</p> <p>13 license. Yes. So it appears to be the case. He's</p> <p>14 indicating a global ELA is in place.</p> <p>15 Q Mr Setti in the email to Mr Hill does not make any</p> <p>16 statements about the scope of Chubb's license to use</p> <p>17 Blaze; correct?</p> <p>18 A It appears that that topic is not discussed in that</p> <p>19 email.</p> <p>20 Q And you had not had any contact directly with Chubb in</p> <p>21 Europe prior to Mr Hill's August 28, 2013 email. Is</p> <p>22 that correct?</p> <p>23 A Not that I recall.</p> <p>24 Q Did you, in fact, begin engaging with Chubb in Europe</p> <p>25 after receiving this email from Mr Hill to the best of</p> <p style="text-align: right;">Page 90</p>	<p>1 to Mr Setti dated October 9, 2013 -- or, I'm sorry --</p> <p>2 September 10th, 2013; correct?</p> <p>3 A That is correct. Yes. 10th September.</p> <p>4 Q Okay, and that was the date of the meeting you had with</p> <p>5 Mr Setti; correct?</p> <p>6 A Yes. Yes. The dates are in different formats, but yes.</p> <p>7 Q Okay, and you write an email to Mr Setti and you refer</p> <p>8 to a deck on Decision Requirements Analysis?</p> <p>9 A Yes.</p> <p>10 Q And I guess another slide deck as well, correct?</p> <p>11 A Yes.</p> <p>12 Q Explain for me and for someone who's not in your line of</p> <p>13 business what it is that you're talking about here in</p> <p>14 this email relating to the Decision Requirements</p> <p>15 Analysis and diagram?</p> <p>16 A Yes. So, this is a methodology, a business analysis</p> <p>17 methodology, that we recommend for any new initiative.</p> <p>18 It's designed to allow us on behalf of our clients, or</p> <p>19 our clients themselves, to map out their requirements</p> <p>20 for automated decisions. So that's what, "DRA", is.</p> <p>21 Q So, "Mapping out their requirements", meaning these are</p> <p>22 the ways in which they would want FICO's software to</p> <p>23 help with decision analysis?</p> <p>24 A No. It's really -- allows them to capture the structure</p> <p>25 of their automated decisions from a business perspective</p> <p style="text-align: right;">Page 92</p>
<p>1 your recollection?</p> <p>2 A That is my recollection, yes. That's when I started to</p> <p>3 meet with the clients face-to-face in the office.</p> <p>4 Q I'm showing you what's been marked as Exhibit 49. This</p> <p>5 is a calendar entry for a meeting.</p> <p>6 (Exhibit 49 marked for identification)</p> <p>7 A Yes.</p> <p>8 Q And the subject of the meeting is:</p> <p>9 "Discussion on the use of Blaze Advisor"; correct?</p> <p>10 A That is correct.</p> <p>11 Q And it appears to be a meeting scheduled for September</p> <p>12 10, 2013 between you and Mr Setti; correct?</p> <p>13 A Sorry, could you repeat the question, please?</p> <p>14 Q It appears to be a meeting on September 10, 2013 between</p> <p>15 you and Mr Setti; correct?</p> <p>16 A Yes.</p> <p>17 Q I'm showing you what's been marked as Exhibit 50.</p> <p>18 Please let me know when you've had a chance to review</p> <p>19 this document.</p> <p>20 (Exhibit 50 marked for identification)</p> <p>21 A Okay. (Pause)</p> <p>22 Q Have you reviewed it? Oh.</p> <p>23 A Yes, I've read the document.</p> <p>24 Q All right. The first email in the chain which is on the</p> <p>25 second-to-last page of Exhibit 50 is an email from you</p> <p style="text-align: right;">Page 91</p>	<p>1 to make the implementation smoother and to allow them to</p> <p>2 manage those decisions more effectively once they're in</p> <p>3 production.</p> <p>4 Q And so when you say, "Make the implementation smoother",</p> <p>5 the implementation of what?</p> <p>6 A Blaze Advisor implementation.</p> <p>7 Q Okay. Were you discussing during the meeting with</p> <p>8 Mr Setti implementation of Blaze Advisor at Chubb</p> <p>9 Europe?</p> <p>10 A I was -- as I mentioned earlier I presented current</p> <p>11 capabilities of the software, and I discussed our</p> <p>12 approach to Decision Requirements Analysis, and then, as</p> <p>13 you can see from my final paragraph, he seemed to feel</p> <p>14 as if they were self sufficient, so I offered:</p> <p>15 "Please ... let me know if you need any assistance</p> <p>16 ... ad-hoc queries ... training requirements ... needed</p> <p>17 by you or our team".</p> <p>18 Q Did he discuss with you at the September 10, 2013</p> <p>19 meeting Chubb Europe's use of Blaze Advisor at that</p> <p>20 time? How Chubb Europe -- strike that.</p> <p>21 Did he discuss with you during the September 10,</p> <p>22 2013 meeting how Chubb Europe was using Blaze Advisor at</p> <p>23 that time?</p> <p>24 A He may have. I don't recall any details around the</p> <p>25 extent.</p> <p style="text-align: right;">Page 93</p>

1 Q Do you -- as you sit here today do you recall having
2 knowledge generally about how Chubb Europe was using
3 Blaze Advisor?
4 **A Not in any level of detail, no.**
5 Q Do you recall what applications Chubb Europe used Blaze
6 Advisor in?
7 **A I believe in a -- I believe Ewen did advise me that they**
8 **had an instance in accident and casualty, but that is**
9 **just my recollection.**
10 Q Do you recall the name of the application it was used
11 in? No?
12 **A No, just a generic -- the generic term I just used.**
13 Q Okay, then on the next page of the exhibit which is
14 FICO2024 in the middle of the page you forward the email
15 from Mr Setti to Mr Hill; correct?
16 **A Yes.**
17 Q And you copy Dermot McCarthy. Who's that?
18 **A He was Richard's manager. Sales Director.**
19 Q Is he at FICO still?
20 **A He is.**
21 Q What's his position?
22 **A He's a client partner managing our processors --**
23 **relationships with processors.**
24 Q Okay. Then in your email to Mr Hill you say:
25 "It seems like they have plenty of candidate

Page 94

1 projects for Blaze Advisor in the UK/Europe, and have
2 been coached well by their colleagues in North America".
3 What are you referring to there?
4 **A So this was a comment on what must have been Ewen**
5 **mentioning that he perhaps sees potential for using the**
6 **technology elsewhere, and when I say, "Have been coached**
7 **well by their colleagues in North America", I believe**
8 **that was from a perception that he was well-connected to**
9 **the US team and seemed comfortable running the projects**
10 **themselves, as I note in the second paragraph.**
11 Q And then you say:
12 "As a result they seem fairly self-sufficient and
13 Ewen doesn't think that training is needed currently,
14 but ..."
15 Bolded and underlined:
16 "... he sees the value of Decision Simulator which
17 is not currently part of their ELA".
18 Did you see that?
19 **A I do see that, yes.**
20 Q So you're pointing out that there is an opportunity for
21 FICO Europe to license another software to Chubb Europe;
22 correct?
23 **A Yes. I'm noting to Richard that there is a potential**
24 **opportunity for Decision Simulator which is an add on to**
25 **Blaze Advisor.**

Page 95

1 Q So because there was not an opportunity for licensing
2 Blaze Advisor, it's significant to you that you see an
3 opportunity to license an add on to Blaze Advisor. Is
4 that fair?
5 **A Yes, it's part of Blaze Advisor and I wanted to make**
6 **Richard aware that there was a potential opportunity.**
7 Q Okay, and you note that the Decision Simulator was not a
8 part of their current enterprise license; correct?
9 **A That's what's written here, yes.**
10 Q That's what you wrote?
11 **A Yes.**
12 Q You say:
13 [REDACTED]
14 [REDACTED]"
15 Is that Decision Simulator --
16 **A Yes.**
17 Q -- license:
18 "... which is perceived to be a little steep".
19 So Mr Setti had, or Chubb had received a quote for
20 a global Decision Simulator license?
21 **A It appears that that was the case. I don't specifically**
22 **recall the discussion, but yes, that would be the**
23 **implication of this.**
24 Q And then you say:
25 "If there were enough projects in Europe could we

Page 96

1 propose a license for the use of Decision Simulator
2 within the UK and Europe only"; correct?
3 **A That's what I wrote, yes.**
4 Q Okay, and what was the purpose of that suggestion?
5 **A The purpose was to give Richard some idea of what he**
6 **could potentially work towards as a client partner.**
7 Q Okay, and the next email up Mr Hill responds to you
8 relating to your question about a European only ELA for
9 Decision Simulator, and he says:
10 "...the cost for a European only ELA for DS would
11 depend on two factors -- how big are the 2 regions
12 relatively to one another, and when do they think they
13 could contract for it....
14 So let's take the first one:
15 "How big are the two regions relative to one
16 another:
17 What's your understanding of what that means?
18 **A So, the pricing for Blaze Advisor is rated on group**
19 **revenue, so therefore any discussions around further**
20 **licensing must take the relative sizes of whatever it is**
21 **that's being defined into consideration.**
22 Q So when you say, "Rated on group revenue", you mean that
23 the entity that the license is being granted to, the
24 revenue of that entity is what FICO looks to to
25 determine what the pricing for the software will be?

Page 97

<p>1 MR HINDERAKER: Object to lack of foundation but answer to</p> <p>2 the extent you know.</p> <p>3 A So, one of the questions in the pricing configuration</p> <p>4 engine, or Blaze Advisor, is group revenue.</p> <p>5 BY MS JANUS:</p> <p>6 Q Okay, group revenue meaning the -- what does, "Group</p> <p>7 revenue", mean though?</p> <p>8 A I do not have a specific definition for that.</p> <p>9 Q Is it your understanding that it means the revenue for</p> <p>10 the entity or entities that will be using the software?</p> <p>11 A Again, I do not have a specific definition of what is</p> <p>12 meant by, "Group revenue".</p> <p>13 Q And then he mentioned:</p> <p>14 "... when do they think they could contract for</p> <p>15 it..."</p> <p>16 In the next sentence he also says:</p> <p>17 "... if they can contract this month we [can] make</p> <p>18 that 225K or less".</p> <p>19 Do you see that?</p> <p>20 A That's what's written in the document, yes.</p> <p>21 Q And what is he referring to there?</p> <p>22 MR HINDERAKER: Objection, lack of foundation.</p> <p>23 BY MS JANUS:</p> <p>24 Q What did you understand him to be referring to there?</p> <p>25 A So, the sales team, as in the sales CBs and account</p> <p style="text-align: right;">Page 98</p>	<p>1 (12.24 pm)</p> <p>2 (Luncheon adjournment)</p> <p>3 (1.24 pm)</p> <p>4 VIDEOGRAPHER: Back on the record. The time is 1.24 pm.</p> <p>5 BY MS JANUS:</p> <p>6 Q Mr Clark, you understand you're still under oath?</p> <p>7 A I do, yes.</p> <p>8 Q I'm handing you what's been marked as deposition exhibit</p> <p>9 number 51.</p> <p>10 (Exhibit 51 marked for identification)</p> <p>11 Please let me know when you've had a chance to</p> <p>12 review the document. (Pause)</p> <p>13</p> <p>14 A Okay, I've read it.</p> <p>15 Q If you take a look at the third page of the document, so</p> <p>16 that's 4809-3 -- do you see that?</p> <p>17 A Yes.</p> <p>18 Q Towards the top of the page there is an email from you</p> <p>19 to Ewen Setti dated October 24, 2013. Do you see that</p> <p>20 email?</p> <p>21 A Yes I do.</p> <p>22 Q And you say:</p> <p>23 "Hello Ewen, it's been a while since we last spoke.</p> <p>24 How is the work on the auto-renewals project going?"</p> <p>25 Do you see that?</p> <p style="text-align: right;">Page 100</p>
<p>1 executives, have some discretion over discount, and</p> <p>2 it's -- you know, to achieve an order within a certain</p> <p>3 time period that discount can be applied to make it more</p> <p>4 attractive to do so. That's my understanding of this</p> <p>5 statement. (Pause)</p> <p>6 MR HINDERAKER: You know, it's about 12.30 -- what is it?</p> <p>7 12.20. When would you like to break for lunch?</p> <p>8 MS JANUS: I'm flexible. Do you have a preference?</p> <p>9 MR HINDERAKER: Some time soon.</p> <p>10 MS JANUS: Okay. That's fine. Yeah. I'm -- there's no</p> <p>11 need to continue without breaking for lunch --</p> <p>12 MR HINDERAKER: Okay.</p> <p>13 BY MS JANUS:</p> <p>14 Q So -- before we go off-the-record, I meant to ask</p> <p>15 relating to Exhibit 50, is this a document that you</p> <p>16 reviewed in preparation for your deposition?</p> <p>17 A I do not recall reviewing this one.</p> <p>18 MS JANUS: Okay.</p> <p>19 A As I said, this archive system we used to have I believe</p> <p>20 has archived them for good, so I don't believe I have</p> <p>21 access to some of these communications.</p> <p>22 MS JANUS: Okay. I'm fine with breaking now if you would</p> <p>23 like to. Okay, let's go off-the-record.</p> <p>24 MR HINDERAKER: Do you have any --</p> <p>25 VIDEOGRAPHER: Going off-the-record. The time is 12.24 pm.</p> <p style="text-align: right;">Page 99</p>	<p>1 A I do.</p> <p>2 Q What was the purpose for you writing that email to</p> <p>3 Mr Setti?</p> <p>4 A Yeah, so I mentioned earlier that it's in our interests</p> <p>5 to have happy customers who are potentially</p> <p>6 referencable, and one of the things I wanted to do with</p> <p>7 Chubb was to have them perhaps reach that state of</p> <p>8 referencability, so this was part of my objective of</p> <p>9 just making sure I was available to them for any --</p> <p>10 yeah. Just in terms of building up a relationship with</p> <p>11 the customer.</p> <p>12 Q Okay, and the auto-renewals project that you referred</p> <p>13 to, was that a project that involved Chubb Europe using</p> <p>14 Blaze Advisor?</p> <p>15 A I believe this is the same project that Ewen had</p> <p>16 originally reached out about.</p> <p>17 Q And that project involved Chubb Europe's use of Blaze</p> <p>18 Advisor?</p> <p>19 A I wasn't sure exactly where it would be deployed or in</p> <p>20 which regions. Those are questions I didn't ask.</p> <p>21 Q But you understood that it involved Chubb Europe's use</p> <p>22 of Blaze Advisor?</p> <p>23 A I understood that it related to Ewen's team's use of</p> <p>24 Blaze Advisor, but I wasn't -- I hadn't crystallized in</p> <p>25 my mind which legal entity of the customer this was.</p> <p style="text-align: right;">Page 101</p>

<p>1 Q Were you familiar with the legal entities -- with</p> <p>2 Chubb's legal entities?</p> <p>3 A No.</p> <p>4 Q Okay. You were informed a month or two prior to this</p> <p>5 email exchange that Chubb has a Blaze global ELA;</p> <p>6 correct?</p> <p>7 A That's what was put to -- put in writing, yes.</p> <p>8 Q You were informed of that by Mr Hill; correct?</p> <p>9 A Yes, that was in the communication with Richard, but</p> <p>10 also it was communicated by Ewen as well.</p> <p>11 Q But the first time you learned of the scope of Chubb's</p> <p>12 license, your testimony was, was from Mr Hill in Exhibit</p> <p>13 48; correct?</p> <p>14 A I believe so, yes.</p> <p>15 Q Okay, so would that carry more weight for you? Would</p> <p>16 being informed by the client partner at FICO about the</p> <p>17 scope of Chubb's license carry more weight for you than</p> <p>18 a statement by someone at Chubb about what they believed</p> <p>19 the scope of the license was?</p> <p>20 A I was not assigning weight to pieces of information</p> <p>21 I was receiving.</p> <p>22 Q Well, presumably you do not want to assist with an</p> <p>23 entity's use of FICO's software if that use is</p> <p>24 unlicensed; correct?</p> <p>25 A I would not.</p> <p style="text-align: right;">Page 102</p>	<p>1 license. Is that fair?</p> <p>2 MR HINDERAKER: Objection, lack of foundation.</p> <p>3 A So that was what we observed, I think, in the previous</p> <p>4 exhibit where Richard Hill reached out to colleagues in</p> <p>5 the US and my assumption is that he took that action</p> <p>6 because that's where the contracts were put together.</p> <p>7 BY MS JANUS:</p> <p>8 Q Take a look at the exchange, then, in Exhibit 51 after</p> <p>9 the email that we looked at on October 24, 2013 in which</p> <p>10 you asked how the auto-renewals project was going.</p> <p>11 Mr Setti, on October 24, then writes you an email that</p> <p>12 is lengthy, and appears to be asking technical questions</p> <p>13 about his project. Is that a fair characterization?</p> <p>14 A I would categorize this as a how to, so how to use the</p> <p>15 software to do a certain thing.</p> <p>16 Q Okay.</p> <p>17 A The answers to many of which similar enquiries are</p> <p>18 available in the documentation for the software.</p> <p>19 Q So he's asking you how to do something with the Blaze</p> <p>20 software?</p> <p>21 A Yes. The question relates to -- yes -- how to input</p> <p>22 decision logic in a certain way into the software.</p> <p>23 Q And was it your understanding that this related to the</p> <p>24 underwriting auto-renewal project that was going on?</p> <p>25 A There is no stated indication that it's the same thing</p> <p style="text-align: right;">Page 104</p>
<p>1 Q Okay, and so did you view it as your responsibility to</p> <p>2 only assist with the licensed use of FICO's software?</p> <p>3 A Yes, it was -- it's not in my interests to -- for that</p> <p>4 not to be the case.</p> <p>5 Q And then in ensuring that the use you are assisting with</p> <p>6 is, in fact, licensed, I take it it would be information</p> <p>7 from your colleagues at FICO about the scope of the</p> <p>8 license that you would view to be authoritative on that</p> <p>9 issue.</p> <p>10 MR HINDERAKER: Objection, asked and answered,</p> <p>11 argumentative.</p> <p>12 A So I had received this information from multiple places.</p> <p>13 I did not weight the pieces of information to say that</p> <p>14 one is more important than another.</p> <p>15 Q Is it your practice to take direction from your clients</p> <p>16 about what they believe the scope of a given FICO</p> <p>17 software license is?</p> <p>18 A I would like to see the situation confirmed from</p> <p>19 multiple sources.</p> <p>20 Q Confirmed from FICO? From your FICO colleagues?</p> <p>21 A No, no. Confirmed from -- by the client in this case,</p> <p>22 and also from -- internally within FICO as well.</p> <p>23 Q Okay. In fact, with respect to the Chubb relationship</p> <p>24 you looked to, and FICO Europe looked to, FICO in the</p> <p>25 United States for guidance about the scope of the Chubb</p> <p style="text-align: right;">Page 103</p>	<p>1 but it could be assumed that it was relating to that</p> <p>2 project.</p> <p>3 Q And then on the same day, October 24, you responded to</p> <p>4 Mr Setti relating to his question, right?</p> <p>5 A Yes.</p> <p>6 Q And you tried to answer it as best you could.</p> <p>7 A Yes.</p> <p>8 Q Okay, and then above he states that he managed to</p> <p>9 resolve it; correct?</p> <p>10 A That's correct.</p> <p>11 Q And it was your understanding that the use of Blaze</p> <p>12 Advisor that Mr Setti was working on was, in fact,</p> <p>13 a licensed use? Is that correct?</p> <p>14 A Yes.</p> <p>15 Q Okay.</p> <p>16 A Yes.</p> <p>17 Q I'm handing you what's been marked as Exhibit 52.</p> <p>18 (Exhibit 52 marked for identification)</p> <p>19 Please let me know when you've had a chance to</p> <p>20 review this document. (Pause)</p> <p>21 A Okay, I've read the document.</p> <p>22 Q Okay? Just tell me in general terms, what does this</p> <p>23 email discussion relate to?</p> <p>24 A I was preparing for a workshop with my team and several</p> <p>25 colleagues from the US, and I wanted to have a visual</p> <p style="text-align: right;">Page 105</p>

1 way of representing where our customers are, so my
2 enquiry was to the product manager, Jeremy Chen, to ask
3 if we had more granular detail so that I could more
4 quickly put together something to use in our internal
5 sales enablement session.
6 Q When you say, "Our customers", was that FICO's customers
7 of a particular software?
8 A I mean, I was interested in everything, obviously to
9 help my colleagues in other divisions, but specifically
10 this was around Blaze Advisor.
11 Q Okay, and the first email -- or, I'm sorry, the last
12 email, the top email on the first page of the document,
13 so I'm looking at the October -- or February 27, 2015
14 email on the top of the first page.
15 MR HINDERAKER: The first page?
16 A Yes. The first page.
17 BY MS JANUS:
18 Q In the third paragraph you've said:
19 "I'm not sure that the multi-national/ELA situation
20 is easy to visualize, as there will be many examples
21 where an ELA signed in the US results in extensive usage
22 in other regions (Chubb brings to mind)".
23 Do you see that?
24 A I do, yes.
25 Q Here you're referring to, again, the fact that Chubb is

Page 106

1 using Blaze Advisor in other regions pursuant to its
2 multinational ELA. Is that correct?
3 A I am referencing the fact that there may be customers
4 who have deployments in multiple countries where the
5 license agreement -- sorry -- legitimately having uses
6 in other countries -- where the license agreement is --
7 has been agreed in a specific geography.
8 Q And you put Chubb in that category; correct?
9 A I named Chubb as an example of that kind -- where that
10 situation might arise.
11 Q So you're using Chubb as an example of a situation where
12 the license was signed in the United States and it
13 resulted in extensive usage in regions outside of the
14 United States; correct?
15 A More specifically where a license agreement is signed
16 and then legitimately the software is used in other
17 territories in this case.
18 Q Okay, and -- but -- and so my question is; Chubb fell in
19 that category; correct?
20 A Based on all the information I had received, that would
21 be the case for Chubb --
22 Q Okay.
23 A -- at the time I wrote this message.
24 Q So your understanding was that Chubb's license for Blaze
25 Advisor, as you put it, legitimately allowed Chubb to

Page 107

1 use Blaze Advisor extensively outside of the
2 United States?
3 MR HINDERAKER: Asked and answered.
4 A Sorry, could you just repeat the question?
5 MS JANUS: It wasn't asked and answered.
6 MR HINDERAKER: How many times have we gone through global
7 ELA? My goodness. It's been asked and answered.
8 MS JANUS: Is it part of your claim that the license didn't
9 cover Europe's use?
10 MR HINDERAKER: Of course it is.
11 MS JANUS: Okay. Could you read the question back?
12 MR HINDERAKER: That doesn't change the fact that you can
13 ask the question nineteen times and it's been asked and
14 answered.
15 (RECORD READ)
16 A That was my understanding, although of course,
17 "Extensively", is a subjective -- highly subjective
18 term.
19 BY MS JANUS:
20 Q But it's your term; correct?
21 A It's the term I used in this instance.
22 Q Okay. Was there any limit that you knew of to Chubb's
23 ability to use Blaze Advisor outside the United States?
24 A I had not reached any conclusion on the -- what those
25 limitations might be.

Page 108

1 Q You did not know of any? Is that correct?
2 A The license -- my understanding was it was restricted to
3 certain modules of Blaze Advisor, certain -- Blaze
4 Advisor comes in two editions, and I believe it was my
5 understanding that this was restricted to one of those
6 editions.
7 Q Other than that, in terms of Chubb's use of Blaze
8 Advisor outside of the United States, you knew of no
9 limitations? Is that fair?
10 A The information I had been given is that it was a global
11 license, and I was unaware of any limitations relating
12 to this.
13 Q I'm showing you what's been marked as Exhibit 53.
14 (Exhibit 53 marked for identification)
15 This is a chain of emails and I am not going to ask
16 you about the emails on the first page of the document.
17 You can feel free to read the whole document but just so
18 that you know I'm going to ask you about the emails on
19 the pages that follow.
20 A So would you like me to read the --
21 MR HINDERAKER: You can just be comfortable with the
22 document.
23 A Okay.
24 BY MS JANUS:
25 Q Yeah.

Page 109

1 **A Okay, I've reviewed the document.**
2 Q Okay. Could you turn to the page marked 9351-4?
3 **A Yes.**
4 Q Okay? In the middle of the page there is an email from
5 Mr Setti to you; correct?
6 **A That's correct, it's a reply to an email from Ewen to**
7 **me.**
8 Q Okay, and Mr Setti's email says:
9 "We've embarked upon a project to build a new web
10 based front-end to our legacy policy admin system.
11 A high level requirement for the new system is for it to
12 incorporate a number of complex insurance rating tools
13 that currently exist as stand-alone Excel spreadsheets.
14 We're considering using Blaze Advisor for this task; but
15 before we make a start on anything we wanted to check
16 it's suitability for the task".
17 **A Yes.**
18 Q Do you see that?
19 **A I do see that.**
20 Q Okay, so he's coming to you to ask about a potential new
21 use by Chubb Europe of the Blaze Advisor software;
22 correct?
23 **A Yes, I saw this as Ewen -- two years later, or**
24 **a year-and-a-half later, after the original**
25 **discussion -- using me as a contact, just to validate**
Page 110

1 **that his requirements were a good fit to the technology.**
2 Q For a new use of the software?
3 **A That is right. Yes.**
4 Q Okay, and then you write back:
5 "Hi Ewen, good to hear from you. I'm pretty sure we
6 can help -- can I give you a call tomorrow just to run
7 through a few questions"; correct?
8 **A That's what is written here, yes.**
9 Q Okay, and that was March 9, 2015.
10 **A Yes. That's right. 9 March 2015.**
11 Q Okay. On the next page, "Slong@Chubb.com", writes an
12 email to you and says:
13 "Hi Oliver, as agreed by Ewen, please find
14 attached".
15 Then describes some -- a document that is attached
16 to the email; correct?
17 **A That's correct. Yes.**
18 Q And did this follow the conversation, then, that you had
19 with Ewen about the proposed use of Blaze Advisor in
20 this new application?
21 **A I believe this is a direct follow-on from that**
22 **conversation.**
23 Q Okay, and to the best of your recollection what is the
24 purpose, then, of the document that was attached to this
25 email?
Page 111

1 **A To the best of my memory the intention was to give**
2 **reassurances to Ewen that this was, indeed, a good fit**
3 **to what the software is capable of doing, because in**
4 **many cases there are some -- the client might say,**
5 **"We're thinking of doing this", and actually it's not**
6 **a good fit, but he wanted reassurances and it was,**
7 **indeed, a good fit, so I agreed to look at the**
8 **requirements.**
9 Q Great. Keep that document in front of you. I'm showing
10 you what's been marked as Exhibit 54.
11 (Exhibit 54 marked for identification)
12 Tell me when you've had a chance to review it.
13 (Pause)
14 **A I've reviewed the document.**
15 Q Okay, so as we saw in Exhibit 53, Chubb Europe sent you
16 an email and a document on March 10, 2015, outlining
17 some proposed uses for Blaze Advisor; correct?
18 **A That's right. Yes.**
19 Q And in response to that email, or as a result of that
20 email it looks like, on March 11, so the next morning,
21 you emailed Jamie Chaban. Who is Jamie Chaban?
22 **A At the time he was leading the pre-sales consultant team**
23 **in the US, I believe.**
24 Q Okay, and you say:
25 "Hi Jamie, I believe you know Chubb well. Are they
Page 112

1 using Blaze Advisor as a ratings engine do you know?"
2 Do you see that?
3 **A Yes.**
4 Q And what does, "Ratings engine", mean for someone who's
5 not familiar with the industry?
6 **A A ratings engine is something which looks at all the**
7 **risks and then assigns a rating to those risks, and then**
8 **that's used to calculate a premium, perhaps, on**
9 **a policy, an insurance policy.**
10 Q Okay, and Jamie gets back to you and says:
11 "My recollection is that they use another solution
12 for Rating but I have been out of Chubb for a long
13 time".
14 Then he refers you to Mike Sawyer; correct?
15 **A He does. Yes.**
16 Q And then Mike Sawyer writes to you and says:
17 "Unfortunately no. Chubb does not use Blaze as
18 a rating engine. They use it for underwriting rules and
19 models in their specialty book"; correct?
20 **A That's correct, yes.**
21 Q And then you write back to Mike and James on March 11
22 and state:
23 "Hi Mike, it looks like Chubb Europe are looking
24 into this (use as a ratings engine). I know of no
25 restrictions in the license that prevent them from doing
Page 113

<p>1 so?"</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q Okay, so you're asking for a confirmation from Mike</p> <p>5 Sawyer that this proposed use of Blaze by Chubb Europe</p> <p>6 would be, in fact, a licensed use. Is that correct?</p> <p>7 A I'm giving him the option to comment on anything that</p> <p>8 may have changed since I last received information on</p> <p>9 the matter.</p> <p>10 Q Okay, so your understanding at the time you wrote the</p> <p>11 email was that this would be a licensed use by Chubb</p> <p>12 Europe; correct?</p> <p>13 A Correct.</p> <p>14 Q And you're giving him an opportunity to say, "No, no,</p> <p>15 no, the license has changed, this is no longer licensed</p> <p>16 for some reason"; correct?</p> <p>17 A Correct.</p> <p>18 Q Okay, and did you hear back from him in connection with</p> <p>19 this email do you recall?</p> <p>20 A I don't recall.</p> <p>21 Q Would you have expected to hear back from him if the</p> <p>22 answer was, "No, this isn't a licensed use, stop</p> <p>23 assisting immediately"?</p> <p>24 A Yes I would have expected.</p> <p>25 Q And I take it you did not hear that?</p> <p style="text-align: right;">Page 114</p>	<p>1 engine"; correct?</p> <p>2 A That's written, yes.</p> <p>3 Q That's what you said?</p> <p>4 A That's what I wrote.</p> <p>5 Q Okay, so you were encouraging Chubb Europe to use Blaze</p> <p>6 for its rating engine; correct?</p> <p>7 A I was not encouraging, but I was fulfilling what I had</p> <p>8 agreed with Ewen, is to, in his original enquiry, to</p> <p>9 check whether this is or isn't a good fit for the</p> <p>10 technology.</p> <p>11 Q And your conclusion was it was a great use for the</p> <p>12 software; correct?</p> <p>13 A That's what I wrote, yes. Yes, but my -- that was from</p> <p>14 a, you know, functional, technical perspective.</p> <p>15 Q Sure. Did you -- in connection with confirming or</p> <p>16 checking that this would, in fact, be a licensed use,</p> <p>17 did anyone ask you to look into what the entity</p> <p>18 structure was of Chubb Europe?</p> <p>19 MR HINDERAKER: Objection, vague, "Entity structure",</p> <p>20 meaning?</p> <p>21 A Sorry, could you clarify what you mean by, "Entity</p> <p>22 structure".</p> <p>23 BY MS JANUS:</p> <p>24 Q Yeah. Earlier you said -- you made an offhand comment</p> <p>25 as soon as you got back from lunch in responding to</p> <p style="text-align: right;">Page 116</p>
<p>1 A I don't believe I had a response to that email but</p> <p>2 I can't recall.</p> <p>3 Q Okay, but you would have recalled if you had received</p> <p>4 a response like that; correct?</p> <p>5 MR HINDERAKER: Objection, asks for speculation.</p> <p>6 A Yes.</p> <p>7 BY MS JANUS:</p> <p>8 Q Okay, then following your email to Mike Sawyer, if we</p> <p>9 take a look back at Exhibit 53 you respond to</p> <p>10 slong@chubb and Ewen Setti; correct?</p> <p>11 A Yes, and there is one other copied on the cc list.</p> <p>12 Q And you say:</p> <p>13 "Thanks for sending these through -- and for your</p> <p>14 explanation. I like the separation of the logic in your</p> <p>15 diagram -- it makes it nicely clear what 'business</p> <p>16 knowledge', what is a calculation, and the steps taken</p> <p>17 to make a decision".</p> <p>18 So you're commenting on the document that he sent</p> <p>19 you relating to the use of Blaze; correct?</p> <p>20 A I'm commenting on his requirements of the ratings -- the</p> <p>21 ratings requirements.</p> <p>22 Q And then you say in the next paragraph:</p> <p>23 "Overall -- this seems like a great use for the</p> <p>24 software, and I have no doubt about its ability to</p> <p>25 deliver the functionality needed for your ratings</p> <p style="text-align: right;">Page 115</p>	<p>1 a question that you weren't focused on which particular</p> <p>2 entity was using Blaze in connection with one of the</p> <p>3 emails we looked at. Do you recall saying that?</p> <p>4 A I recall saying that in retrospect that at the time I</p> <p>5 wasn't aware of what the underlying legal entities were.</p> <p>6 Q Okay, so when you were working with Chubb Europe you</p> <p>7 were not aware of what the underlying legal entities, as</p> <p>8 you put it, were of Chubb. Is that fair?</p> <p>9 A That is fair, yes.</p> <p>10 Q Did you have an understanding of how Chubb was organized</p> <p>11 as a corporation, or as a group of corporations?</p> <p>12 A No.</p> <p>13 Q Did anyone at FICO ask you to look into that issue in</p> <p>14 connection with confirming that the Chubb Europe's use</p> <p>15 of Blaze was, in fact, a licensed use?</p> <p>16 A I don't recall anything like that.</p> <p>17 Q Did anyone at FICO ever mention the concept to you in</p> <p>18 connection with discussing the scope of Chubb's license</p> <p>19 for Blaze Advisor?</p> <p>20 MR HINDERAKER: Objection, vague, concept of what?</p> <p>21 A Could you repeat the question more clearly?</p> <p>22 MS JANUS: Please re-read it.</p> <p>23 (RECORD READ)</p> <p>24 A I don't believe so.</p> <p>25 Q I'm showing you what's been marked as Exhibit 55.</p> <p style="text-align: right;">Page 117</p>

1 (Exhibit 55 marked for identification)
2 This appears to be a calendar entry for a meeting.
3 The subject of the meeting is, "Blaze Advisor for
4 insurance rating". Do you see that?
5 **A Yes, I can see that.**
6 **Q** The date of the meeting is March 23, 2015; correct?
7 **A That is correct.**
8 **Q** Exhibit 53, which is the emails between you and Chubb
9 relating to the use of Blaze Advisor for insurance
10 rating, occurred in March of 2015; correct?
11 **A Yes, the last one I was -- sorry. The last one on**
12 **Exhibit 53 is 12 March, and this is -- Exhibit 55 -- is**
13 **later on in March.**
14 **Q** This meeting was a follow-up to the emails that you and
15 Ewen and Mr Long exchanged relating to Chubb Europe's
16 use of Blaze Advisor for insurance rating?
17 **A That is right. It was a follow-on meeting.**
18 **Q** Okay, and did you, in fact, have this meeting?
19 **A I believe so. If it's the one I remember it was held in**
20 **their offices for the first time -- the first time I**
21 **visited them in their own offices.**
22 **Q** Okay. Tell me what you remember about what you
23 discussed with Ewen. Well, first tell me who was at the
24 meeting other than you.
25 **A So, I believe Ewen and Sam were certainly there. I**

Page 118

1 cannot remember if David or Denise -- who were the other
2 two, the optionals -- I cannot remember if they were
3 there. I believe I also invited my colleague Larry
4 Jacobson to attend with me because he's the insurance
5 subject matter expert.
6 **Q** Okay, and what was discussed at the meeting?
7 **A I cannot precisely remember what was discussed, but I**
8 **believe our objective was to convince the customer, or**
9 **give them evidence perhaps from case studies from other**
10 **customers that the use of the software for rating was,**
11 **again, a good fit for the technology.**
12 **Q** Was there, as best you can recall, discussion,
13 additional discussion about how Chubb Europe planned to
14 use Blaze Advisor for insurance rating?
15 **A I cannot remember the specific details of what was**
16 **discussed. As I say, I did bring my -- I believe I**
17 **brought my colleague, Larry Jacobson, along. He's our**
18 **subject matter expert in the insurance sector, so ...**
19 **yeah.**
20 **Q** Two hour long meeting? Is that right?
21 **A That's what it seems to have been scheduled for on the**
22 **invitation.**
23 **Q** Do you recall whether it was, in fact, a two-hour long
24 meeting?
25 **A I cannot recall whether it overran or underran.**

Page 119

1 **Q** Okay. At a meeting like this would you be actually
2 looking at computers or a computer and talking about
3 actual programming?
4 **A Well, we would certainly bring our -- we would often**
5 **bring our laptops to a meeting. It's just for the**
6 **purpose of taking notes.**
7 **Q** So there is no other use of the computer, generally,
8 during a meeting like this?
9 **A Typically in pre-sales consulting all of it's talking.**
10 **Q** Did you discuss with Ewen or anyone else at Chubb Europe
11 where Blaze Advisor was installed?
12 **A I don't believe I did for the reason that I believed it**
13 **to be a global license.**
14 **Q** So your understanding would have been that Blaze Advisor
15 would have been installed somewhere in Europe for use by
16 Chubb Europe?
17 **A I had no real understanding of where it would be**
18 **installed. Some of our multinational clients run their**
19 **systems in the US.**
20 **Q** And some install it in multiple places?
21 **A Some do, yes.**
22 **Q** Your understanding would be that if you have a global
23 license for Blaze, then that licensee is able to install
24 the Blaze software in whatever region it's using it in.
25 Is that correct?

Page 120

1 **A It would depend on the meaning of the contract that had**
2 **been put in place.**
3 **Q** But in the situation with Chubb, the location of the
4 installation of Blaze Advisor was not significant to
5 you. Is that fair?
6 **A At the time I did not believe it to be significant.**
7 **Q** I'm showing you what's been marked as Exhibit 56.
8 (Exhibit 56 marked for identification)
9 **A Okay.**
10 **Q** Let me know when you've had a chance to review this
11 document. (Pause)
12 **A Okay.**
13 **Q** Okay. Exhibit 56 is an email from Hamish Tonkin at
14 Chubb to you with a copy to David Gibbs at Chubb;
15 correct?
16 **A That's right, yes.**
17 **Q** Does this refresh your recollection that Hamish Tonkin
18 was at the March 23, 2015 meeting relating to the
19 ratings engine? I'm sorry, the insurance rating?
20 **A I don't recall if he was or wasn't present.**
21 **Q** Okay, and apologies if you said this already, but do you
22 recall if David Gibbs was at the March 23, 2015 meeting?
23 **A I'm afraid I can't recall that information.**
24 **Q** Okay, so here Hamish Tonkin states:
25 "Hi Oli, good to meet up again"; correct?

Page 121

1 **A Yes.**
2 Q And this is the day after your March 23, 2015 meeting;
3 correct?
4 **A Yes. I believe so. Yes. That's right. Yes.**
5 Q And then Mr Tonkin states:
6 "Would you please be able to chase down whether we
7 have Decision Simulator as part of our license
8 agreement".
9 Do you see that?
10 **A That's what he's asking.**
11 Q So Chubb is enquiring of you about the scope of Chubb's
12 license. Is that fair?
13 **A Hamish Tonkin is an architect, is asking me to assist**
14 **with finding this information.**
15 Q Okay, so he's looking -- he, as an employee of Chubb, is
16 looking to you as an employee of FICO to help him
17 understand the scope of the Chubb license.
18 **A He's asking whether Decision Simulator is covered as**
19 **part of the license agreement.**
20 Q Okay, so is the answer to my question yes?
21 MR HINDERAKER: Objection, argumentative.
22 **A It specifically relates to the Decision Simulator**
23 **module.**
24 **BY MS JANUS:**
25 Q Okay, and whether it's a part of Chubb's license

Page 122

1 agreement, correct?
2 **A Yes. That's right.**
3 Q Then you forward the email from Mr Tonkin to Andy Moffat
4 with a copy to Mark Collingwood; correct?
5 **A That's correct, yes.**
6 Q And Andy Moffat is someone you mentioned earlier. He
7 was an account executive at FICO? Is that correct?
8 **A Yes. Sorry. So, at the time there was a reorganization**
9 **and a number of people made specialist sellers for**
10 **insurance, for example, and Andy Moffat was one of them.**
11 **I'm not sure whether his actual title at the time was,**
12 **"Account executive", or, "Client partner", but his role**
13 **was effectively a specialist seller for the insurance**
14 **sector.**
15 Q And what about Mark Collingwood?
16 **A Mark Collingwood was his manager at the time.**
17 Q Okay, and you say:
18 "Good afternoon Andy, please see below from an email
19 from one of the Global Enterprise Architects..."
20 Then you say:
21 "(Think 'Sully' from the training)"?
22 **A Hmm.**
23 Q What does that refer to?
24 **A We had received some sales training and part of it was**
25 **about the topic was selling to IT, so Sully was named as**

Page 123

1 **an archetype sort of person that you would want to build**
2 **a relationship with in order to get -- you know, to**
3 **follow the selling to IT sales play, so I was**
4 **referencing the fact that Hamish met that profile, and**
5 **he was also at the training of course.**
6 Q And he was what?
7 **A And he was at the training that I was referring to.**
8 Q Oh, I see. So you're referring to a training about how
9 to sell to someone in IT?
10 **A Yes.**
11 Q Okay, and Sully at the training was a particular type of
12 person, or an example of someone and you were trained
13 about how to sell to that type of person?
14 **A We were given the example of an enterprise architect,**
15 **somebody who has visibility of multiple projects and**
16 **could look at things holistically.**
17 Q And then you say:
18 "Chubb have an ELA for Blaze Advisor, signed in the
19 USA. But I don't believe that it covers Decision
20 Simulator".
21 In the second-to-last paragraph you say:
22 "Could you please firstly check that they are not
23 covered for the use of Decision Simulator (in the US
24 contract), and if this is the case, prepare a price for
25 Hamish's consideration".

Page 124

1 Do you see that?
2 **A I do see that.**
3 Q So again you're looking for confirmation from your FICO
4 colleagues about the scope of the Chubb license;
5 correct?
6 **A So this individual, Andy Moffat, was relatively new to**
7 **the company and this was a good exercise for him to get**
8 **networked with the US colleagues for global insurance**
9 **practice.**
10 Q And my question was; again, you are looking for
11 confirmation from your FICO colleagues about the scope
12 of the Chubb license. Is that correct?
13 **A My understanding was that they were not covered for**
14 **Decision Simulator so I was, again, putting this clearly**
15 **in writing so that my sales colleague could then liaise**
16 **with the colleagues in the US.**
17 Q To confirm that fact?
18 **A Yes.**
19 Q I'm showing you what's been marked as Exhibit 57.
20 (Exhibit 57 marked for identification)
21 Please take a look at this document and let me know
22 when you've reviewed it.
23
24 **A Okay.**
25 Q Before I ask you about that I'm going to ask you about

Page 125

1 Exhibit 58.
2 (Exhibit 58 marked for identification)
3 It has some of the same emails in it but take a look
4 and then let me know when you've reviewed Exhibit 58.
5 (Pause)
6 Ready?
7 **A Yes.**
8 Q Okay. Okay. So, looking at Exhibit 58 on the page
9 marked 1978 you'll see the bottom of the page is the
10 email we looked at previously from Mr Tonkin to you. Do
11 you see that?
12 **A Yes.**
13 Q Okay, and then you respond on the same day to Mr Hamish
14 and you say:
15 "Good to meet you again, also".
16 You say:
17 "I don't believe your current license covers the
18 usage of the Decision Simulator module, but let me check
19 the contracts library. Blaze Advisor licenses are
20 typically scoped by application area -- could you please
21 supply me with a description of the application(s) you
22 would like to use this within".
23 What did that mean?
24 **A Can you be more specific about which part?**
25 Q The second sentence.

Page 126

1 **A Specifically?**
2 Q "Blaze Advisor licenses are typically scoped by
3 application area".
4 **A Yes.**
5 Q What do you mean by that?
6 **A That is the default starting position for any discussion**
7 **around licensing.**
8 Q What does that mean? "Typically scoped by application
9 area"?
10 **A It means the use for a specific application only.**
11 Q Okay. Was it your understanding that Chubb's Blaze
12 Advisor license was not scoped by application area?
13 **A My understanding from -- as noted previously -- was that**
14 **it was a global license which is the alternative to an**
15 **application license.**
16 Q Okay. So then what was the significance of your
17 question here?
18 **A So if there were, indeed, an opportunity to license**
19 **Decision Simulator, it should be scoped by application.**
20 Q Okay. Was the practice of scoping licenses by
21 application something that FICO developed after it
22 entered into the global enterprise license with Chubb?
23 MR HINDERAKER: Objection, lack of foundation.
24 **A I do not know as I believe that would have happened**
25 **before I joined the company.**

Page 127

1 **BY MS JANUS:**
2 Q The practice of scoping by application area?
3 **A No, the licensing arrangement with the client.**
4 Q Do you know when FICO developed the practice of scoping
5 by application area?
6 **A I do not know.**
7 Q Did it develop while you were at FICO?
8 MR HINDERAKER: Objection, lack of foundation.
9 **A I don't believe that it did.**
10 **BY MS JANUS:**
11 Q So it was in place prior to you coming to FICO?
12 **A I believe that that is the case, yes.**
13 Q And then Mr Tonkin writes back:
14 "Thanks Olly, the usage would be policy admin
15 system"; correct?
16 **A That's right, yes.**
17 Q Oh, before we move on, in your response to Mr Tonkin in
18 the middle of the page marked 1978, you confirm that
19 you're going to check regarding the scope of the Chubb
20 license; correct?
21 **A Erm ...**
22 Q You say:
23 "I don't believe your current license covers the
24 usage of the Decision Simulator module, but let me check
25 the contracts library".

Page 128

1 Do you see that?
2 **A Yes.**
3 Q So you're confirming for Mr Tonkin at Chubb Europe that
4 you're going to check on the scope of the license.
5 **A That is what I offered, yes.**
6 Q Did you, in fact, check the contracts library?
7 **A No. I -- that is, as I've described earlier, that's the**
8 **client partner's responsibility, so as you'll see in the**
9 **remainder, that's something I asked them to look into.**
10 Q You sent it on to Mr Moffat?
11 **A Yes.**
12 Q Okay. At this point in your working relationship with
13 Chubb Europe, had you reviewed Chubb's license with
14 FICO?
15 MR HINDERAKER: Objection. Asked and answered.
16 **A Erm ...**
17 **BY MS JANUS:**
18 Q I just meant -- just to clarify, I meant generally, not
19 in connection with this email.
20 **A I had access to the system. I may have accessed a lot**
21 **more of the documents, but without having the experience**
22 **to interpret them or the time to read them thoroughly I**
23 **came to no conclusion.**
24 Q You relied on others at FICO to do that?
25 **A Yes.**

Page 129

1 Q Okay. Then you write back to Mr Tonkin that you've
2 forwarded his request to the FICO account executive for
3 Chubb, and you confirm that this is to cover commercial
4 property insurance on a pan-European basis; correct?
5 **A That's what was written, what I wrote, yes.**
6 Q And what did you mean by, "Pan-European"?
7 **A So my understanding was that this application would be**
8 **used for rating in multiple countries.**
9 Q Okay. So, what did you mean by the term,
10 "Pan-European"?
11 **A I think in this case it was meant as, you know, not**
12 **exclusively in the UK.**
13 Q So other countries in Europe as well?
14 **A That was my understanding of what this application was**
15 **designed to serve.**
16 Q And was Decision Simulator something that Chubb was --
17 Chubb Europe was considering using on top of a Blaze
18 program or in conjunction with a Blaze program?
19 **A Yes it would. It's an add-on module --**
20 Q Okay.
21 **A -- to Blaze Advisor.**
22 Q Okay. Okay. Then Mr Tonkin states, you know:
23 "Please get back to us asap with a pricing model".
24 He says:
25 "Hint - don't make it too steep day one as it will

Page 130

1 make the business case in the future for global adoption
2 less appealing", correct?
3 **A That's what he wrote, yes.**
4 Q Then you forward on this information to Mr Moffat and
5 say:
6 "More information for you Andy"?
7 **A That's correct.**
8 Q Okay. Then Mr Moffat writes back on March 26 and says:
9 "Quick question ... is Chubb not managed from the
10 US? Should the US sales guys be doing this as they
11 control the commercial relationship?"
12 Did you have an understanding of what he meant by,
13 "Should the US sales guys be doing this"?
14 **A So my understanding is that he -- he seems to be**
15 **clarifying who has responsibility for quoting for new**
16 **usages.**
17 Q Is he sort of talking about managing that client
18 relationship? "Should the US sales guys be doing this,
19 interacting on a sales capacity with Chubb"?
20 MR HINDERAKER: Object, lack of foundation.
21 **A It's not clear what, "Managed", might be in this case.**
22 **BY MS JANUS:**
23 Q And then Larry Jacobson writes back to Mr Moffat with
24 a copy to you and Mr Collingwood and directs Mr Moffat
25 to reach out to Russ -- that would be Russ Schreiber,

Page 131

1 correct?
2 **A That's correct.**
3 Q He -- and he says:
4 "... he did the original deal with Chubb, global
5 Blaze ELA", correct?
6 **A That's what is written, yes.**
7 Q Okay, and then Mr Jacobson says:
8 "However, Decision Simulator could be an up sell and
9 if procured by Chubb Europe, we could probably recognize
10 the revenue on that"; correct?
11 **A That's what it says, yes.**
12 Q So Mr Jacobson is pointing out that if Chubb Europe
13 succeeds in selling Decision Simulator -- I'm sorry,
14 strike that.
15 If FICO Europe succeeds in selling Decision
16 Simulator to Chubb Europe that FICO Europe would be the
17 entity recognizing that revenue rather than the US;
18 correct?
19 **A I am -- I think it's open to interpretation, but, again,**
20 **going back to the concept of an application license, it**
21 **seems that what Larry is saying is if it's restricted to**
22 **a particular area then that could be attributed to our**
23 **region.**
24 Q The revenue from it would be recognized by Chubb -- by
25 FICO Europe?

Page 132

1 **A By the sales organization that we belonged to -- FICO**
2 **EMEA -- Europe, Middle East, Africa, on which our**
3 **targets are based, as I mentioned.**
4 Q Okay. Turn back to Exhibit 57. You already reviewed
5 this document, but I haven't asked you questions about
6 it yet.
7 **A That's correct.**
8 Q Look at the page marked FICO 1770.
9 **A Yes.**
10 Q Okay? So this is an email dated March 26, 2015, from
11 Mr Moffat. The time on the email is 6.53 am, but I
12 believe that is US time, and that this email from
13 Mr Moffat to Russ Schreiber follows Mr Jacobson's March
14 26 email to Mr Moffat saying, "Reach out to Russ". Take
15 a look and let me know if that makes sense to you.
16 (Pause)
17 **A I can't recall what time zone Russ either was based in**
18 **or was traveling in at the time, but one might conclude**
19 **that the two follow. That's one interpretation.**
20 Q Okay, and Mr Moffat writes to Russ Schreiber:
21 "Larry and Olly recently met with Chubb in London
22 and we are looking to do some work with them:
23 "1. Additional Blaze license for commercial property
24 (European-wide)
25 "2. Check if they have Decision Simulator as part of

Page 133

1 the contract.
2 "Can you help here? Happy to crack on but need
3 sight of the existing commercials and contract terms".
4 Have I read the email correctly?
5 **A That is what is written, yes.**
6 Q Okay, so Mr Moffat is asking Mr Schreiber to confirm and
7 inform on the scope of FICO's license to Chubb; correct?
8 **A He is asking a couple of questions relating to the --**
9 **their license entitlement, yes.**
10 Q The scope of Chubb's license with Blaze -- with FICO,
11 correct?
12 **A Erm ... yes, so the contents of the agreement in**
13 **relation to Decision Simulator, but also the -- it**
14 **appears as if he's also asking around the scope as well.**
15 Q Okay, and he actually suggests that there might be an
16 additional Blaze license for commercial property
17 European-wide; correct?
18 **A Erm ... that appears to be the question that he's**
19 **asking.**
20 Q Do you know why Mr Moffat posed that question to
21 Mr Schreiber?
22 **A I do not know.**
23 Q You mentioned he was newer to FICO at this time,
24 correct?
25 **A Yes.**

Page 134

1 Q Possibly he just didn't really have an understanding of
2 the scope of the Chubb license?
3 MR HINDERAKER: Objection, asks for speculation.
4 **A Yes, he was fairly new to the organization.**
5 **BY MS JANUS:**
6 Q And Mr Schreiber gets back to him and says:
7 "Chubb has global ELA for Blaze but no Simulator";
8 correct?
9 **A That's right. That's what he was -- wrote here.**
10 Q And then Mr Moffat responds:
11 "Thanks Russ, so to summarize there's no additional
12 licensing cost for this except to included [sic]
13 Decision Simulator..."
14 Did you see that?
15 **A I do see that, yes.**
16 Q So Mr Moffat suggested that there could be an additional
17 Blaze license for commercial property in Europe --
18 MR HINDERAKER: Objection, misstates the --
19 BY MS JANUS:
20 Q -- true?
21 MR HINDERAKER: Objection, misstates the testimony.
22 BY MS JANUS:
23 Q I'm not stating anything about the testimony. I'm
24 asking a question.
25 Mr Moffat starts out by enquiring of Mr Schreiber

Page 135

1 whether there can be an additional Blaze license for
2 commercial property in Europe; correct?
3 **A He's asking based on unknown prior knowledge.**
4 Q Okay, but he asks that nonetheless; correct?
5 **A It says here, "Additional Blaze license for commercial**
6 **property".**
7 Q And Mr Schreiber, in effect, says "No, they have
8 a global ELA for Blaze"; correct?
9 **A That is what's written here, yes.**
10 Q And just to be sure, Mr Moffat summarizes that there
11 will be no additional licensing costs with the exception
12 of the Decision Simulator; correct?
13 **A He does summarize as you said, yes.**
14 Q And there's no discussion in this email about the
15 corporate structure of the Chubb entities; correct?
16 **A I don't believe there is.**
17 Q No discussion of who the parent company is, if there is
18 a parent company of Chubb Europe; correct?
19 **A There doesn't appear to be any discussion of that type.**
20 Q No indication that that's a relevant consideration at
21 all in the determination of whether Chubb Europe is
22 covered by the Blaze Advisor global ELA; correct?
23 MR HINDERAKER: Objection, argumentative.
24 **A There doesn't appear to be a reference to that.**
25

Page 136

1 BY MS JANUS:
2 Q Turn back to Exhibit 58. The reason I'm going between
3 these is it appears there are parallel conversations
4 involving the same topic among you and others at FICO.
5 On the first page of Exhibit 58, after Mr Schreiber
6 has responded to Mr Moffat with a copy to you about the
7 scope of the Blaze license to Chubb, Mr Moffat writes to
8 you and Mr Jacobson with a copy to Collingwood, and at
9 the bottom of the first page of Exhibit 8, states:
10 "The Blaze license is an ELA and not country
11 specific so nothing to pay there".
12 Do you see that?
13 **A That's written at the bottom of the first page, yes.**
14 Q And then you write to Natalie Gundy. Who is she?
15 **A She works in the sales support team. I believe she**
16 **looks after renewals and other things relating to**
17 **clients -- existing customers.**
18 Q And you say:
19 "Could you possibly pull the Chubb insurance
20 contracts relating to their licenses for Blaze Advisor"?
21 **A Yes.**
22 Q "We're trying to license an add-on (Decision Simulator)
23 and need to know the terms of the original ELA for Blaze
24 Advisor signed in the US".
25 Correct?

Page 137

1 **A That's what it says here, yes. That's what I wrote.**
2 Q And did Ms Gundy send you the insurance contracts
3 relating -- I'm sorry -- did Ms Gundy send you the
4 licenses for Blaze Advisor?
5 **A I actually don't recall whether she did or not.**
6 Q Why, specifically, did you want to review the licenses?
7 **A So, the -- I mentioned that the default model for new**
8 **quotes is to follow an application license model.**
9 [REDACTED]
10 [REDACTED]
11 [REDACTED] Therefore, to know how to -- or to
12 have some guidance on how to appropriately price the add
13 on, I was interested in seeing what the overall contract
14 value was.
15 **MR HINDERAKER: We've been going for more than an hour now.**
16 **Do you mind if we took a break?**
17 **MS JANUS: That's fine.**
18 **MR HINDERAKER: Okay. Let's take a break.**
19 **VIDEOGRAPHER: Going off-the-record. The time is 2.45 pm.**
20 (2.45 pm)
21 (A short break)
22 (2.54 pm)
23 **VIDEOGRAPHER: Back on the record. The time is 2.54 pm.**
24 **BY MS JANUS:**
25 Q Okay. Mr Clark, you understand you're still under

Page 138

1 oath?
2 **A I do, yes.**
3 Q Okay. I'm showing you what's been marked as Exhibit 59.
4 (Exhibit 59 marked for identification)
5 Let me know when you've had a chance to review this
6 document. (Pause)
7 Have you had a chance to review it?
8 **A Not fully yet.**
9 Q Oh, okay. (Pause)
10 **A Okay.**
11 Q Okay? So I think we've gone over most of the emails in
12 this Exhibit 59 in previous email strings, but on the
13 first page there's an email from you to Moffat,
14 Jacobson, copy to Collingwood and Richard -- how do you
15 say the last name?
16 **A Lagerweij.**
17 Q And who is Richard Lagerweij?
18 **A He's my manager.**
19 Q What is his position?
20 **A At the time he was head of Pre-Sales Consulting (EMEA).**
21 Q What's his current position?
22 **A Head of EMEA line of business for Decision Management**
23 **Suite.**
24 Q So, when you say, "EMEA" -- you mentioned this briefly
25 before, but what does that stand for?

Page 139

1 **A "Europe, Middle East and Africa".**
2 Q So is it E-M-E-A?
3 **A Yes.**
4 Q While we're on the topic, so your manager is Richard
5 Lagerweij?
6 **A Yes.**
7 Q And do you report to anyone else?
8 **A I only have one line manager.**
9 Q What?
10 **A I only have one manager.**
11 Q Okay. Who does he report it?
12 **A Currently or at the time?**
13 Q Currently.
14 **A He reports to Steve Hadaway who is the general manager**
15 **for EMEA.**
16 Q And who did he report to at the time?
17 **A I believe it was still Steve Hadaway, the same -- oh.**
18 **Actually I'm not sure. I think there was a switchover**
19 **around this point in time.**
20 Q How many directors of presale consulting are there at
21 FIKO EMEA?
22 **A How many ...**
23 Q Your position is director in the division of presale
24 consulting. Is that right?
25 **A Currently I am -- that is my title within the DMS line**

Page 140

1 **of business for EMEA. That is where I fit,**
2 **organizationally.**
3 Q Okay. How many directors are there at your level?
4 **A With that title? At least four or five I think, I would**
5 **say.**
6 Q And would that be through all of the three lines of
7 business or only in DMS?
8 **A That would be multiple lines of business, yes.**
9 Q Okay. How many directors in the Pre-Sales Consulting
10 division are there in the Decision Management Suite line
11 of business?
12 **A So, my manager heads the line of business, the Decision**
13 **Management Suite, in EMEA. He has two direct reports --**
14 **I'm one of them -- but it's worth noting that his**
15 **responsibility has recently increased to incorporate**
16 **what used to be known as the Risk Management line of**
17 **business, so, in effect, he has added responsibility.**
18 Q Okay, and so how many directors -- you said your manager
19 has two reports, but my question was a little different.
20 My question is how many directors are there of the
21 Pre-Sales Consulting division for the Decision
22 Management Suite are there?
23 **A In EMEA I'm -- in EMEA it is effectively me.**
24 Q So you are the only one? You are the only director in
25 the Pre-Sales Consulting division for Decision

Page 141

<p>1 Management Suite?</p> <p>2 A In EMEA yes, I believe so.</p> <p>3 Q And does -- how many offices does FICO EMEA have?</p> <p>4 A There are quite a few offices. I can't list them</p> <p>5 individually because we have -- in some countries we</p> <p>6 have more than one.</p> <p>7 Q How many offices do you have in the UK?</p> <p>8 A We have three.</p> <p>9 Q How many employees are in the Decision Management Suite</p> <p>10 line of business?</p> <p>11 MR HINDERAKER: Objection, lack of foundation.</p> <p>12 A Yes, we don't report on that publicly and I am not aware</p> <p>13 of what the figure is internally, either.</p> <p>14 BY MS JANUS:</p> <p>15 Q Is it more than 50?</p> <p>16 MR HINDERAKER: Same objection.</p> <p>17 A Do you mean in total?</p> <p>18 BY MS JANUS:</p> <p>19 Q For the Decision Management Suite line of business for</p> <p>20 FICO EMEA.</p> <p>21 A Oh, erm ... so, including me and my team there are</p> <p>22 seven, and then there's my manager, Richard, and another</p> <p>23 colleague who has a team of three, but his focus is on</p> <p>24 risk lifecycle which is considered separate to DMS, even</p> <p>25 though there is some overlap in the technologies.</p> <p style="text-align: right;">Page 142</p>	<p>1 recently that's been around every 18 months.</p> <p>2 Q Global what?</p> <p>3 A Our customer conference.</p> <p>4 Q "Customer conference"?</p> <p>5 A Yes. For our customers.</p> <p>6 Q Mm-hmm?</p> <p>7 A And the third occasion which happens rarely is when I</p> <p>8 visit Product Management -- the Product Management</p> <p>9 team -- or teams for training where training is</p> <p>10 delivered in the US.</p> <p>11 Q Okay. When does the sales conference occur?</p> <p>12 A It's variable. It tends to be after the start of the</p> <p>13 new financial year.</p> <p>14 Q When does your fiscal year start?</p> <p>15 A October.</p> <p>16 Q October? So when did the sales conference occur, or</p> <p>17 will occur in 2018?</p> <p>18 MR HINDERAKER: If you know.</p> <p>19 A An email was sent out about it. I think it's 3-6</p> <p>20 December, I believe.</p> <p>21 BY MS JANUS:</p> <p>22 Q And what about the global customer conference? Has that</p> <p>23 occurred in 2018?</p> <p>24 A Yes. It occurred in -- I think it was April, but</p> <p>25 I am -- I can't specifically recall which month it was.</p> <p style="text-align: right;">Page 144</p>
<p>1 Q Does -- is Blaze -- is the Blaze software only in the</p> <p>2 DMS line of business?</p> <p>3 A Could you expand on the question?</p> <p>4 Q Do other lines of business at FICO sell Blaze software?</p> <p>5 A I would say there is no black and white restriction, so</p> <p>6 there may be cases where, for example, the Risk Life</p> <p>7 Cycle team line of business which I mentioned was</p> <p>8 separate up until recently, would often position Blaze</p> <p>9 Advisor as a technology, but the teams work relatively</p> <p>10 closely together, it should be noted.</p> <p>11 Q And you said you have a team of seven?</p> <p>12 A I have six direct reports.</p> <p>13 Q Six? Six direct reports?</p> <p>14 A Yes.</p> <p>15 Q And that is in -- and all of those people are in the</p> <p>16 Pre-Sales Consulting in the DMS line of business?</p> <p>17 A They are, yes. That is the case, yes.</p> <p>18 Q Do you travel to the United States as a part of your</p> <p>19 job?</p> <p>20 A I do.</p> <p>21 Q How frequently do you travel to the United States?</p> <p>22 A It is limited to three eventualities. One is sales</p> <p>23 conference which happens -- has happened recently once</p> <p>24 a year. There is also our global customer conference,</p> <p>25 FICO World, which I've been invited to on some years and</p> <p style="text-align: right;">Page 143</p>	<p>1 Q Where in the United States was it held?</p> <p>2 A This was in Miami.</p> <p>3 Q And then what about the product management -- have you</p> <p>4 taken any trips to the United States for the Product</p> <p>5 Management purposes?</p> <p>6 A I attended a training for cloud services earlier in this</p> <p>7 year.</p> <p>8 Q When was that?</p> <p>9 A It looks like I've got a terrible memory. It must have</p> <p>10 been in February, I believe. I believe it was February.</p> <p>11 Q When was the last time you were in the United States?</p> <p>12 A That was when I visited -- when I attended the FICO</p> <p>13 world conference in Miami, our global customer</p> <p>14 conference.</p> <p>15 Q What did you call it?</p> <p>16 A "FICO World".</p> <p>17 Q "FICO World", and is the next trip that you have planned</p> <p>18 to the United States in December 3-6?</p> <p>19 A That is the next scheduled visit, yes.</p> <p>20 Q And how many times -- if you had to say generally, on</p> <p>21 average, how many times a year do you travel to the</p> <p>22 United States for your job at FICO, would you say</p> <p>23 generally it's three times a year?</p> <p>24 A In the years that our sales kick off has been running in</p> <p>25 the US it's been at least once a year.</p> <p style="text-align: right;">Page 145</p>

1 Q What do you mean, "In the years since the sales kick off
2 has been running"?
3 **A There were some years when our sales event was held at**
4 **a regional level --**
5 Q Okay.
6 **A -- and therefore I attended in Europe.**
7 Q So at least once a year, sometimes more than once a year
8 you would travel to the United States for your
9 profession?
10 **A I think that's about right, yes. Yes. Approximately.**
11 Q Getting back to Exhibit 59, you say to Mr Moffat:
12 "The application scope for the Decision Simulator
13 add-on should be tied to a specific application. In
14 this case, Chubb want to use it within their rating
15 engine application, for use when underwriting commercial
16 property insurance on a pan-European basis".
17 Do you see that?
18 **A Yes, I do see it.**
19 Q So you're providing details about Chubb's potential use
20 of the Decision Simulator to Mr Moffat for purposes of
21 pricing?
22 **A I'm relaying what the customer had told me, so that**
23 **Mr Moffat can develop a proposal himself.**
24 Q And you say:
25 "Could you and Mark work on an alternative model".

Page 146

1 What did you mean by that?
2 **A My meaning was that it should be scoped by application**
3 **area rather than by any other measure.**
4 Q And then you say:
5 "It should be attractive enough for them to procure
6 for this project, with a model that allows them to
7 expand their usage over time"?
8 **A That's what I wrote, yes.**
9 Q Your goal was to have Chubb purchase the license for
10 Decision Simulator and hopefully expand that usage?
11 **A That was actually the guidance that Hamish had given us**
12 **at the few -- as I said earlier, "Don't make it too**
13 **steep day one as it will make the business case in the**
14 **future for global adoption less appealing".**
15 Q Okay, and your goal was to provide a price that would
16 ultimately lead to global adoption?
17 **A Not necessarily, but one where the client could see that**
18 **if they did want to expand their usage then it would**
19 **have -- there would be a known quantity. They wouldn't**
20 **have to necessarily negotiate with the salesperson on**
21 **the details on each occasion.**
22 Q I'm showing you what's been marked as Exhibit 60.
23 (Exhibit 60 marked for identification)
24 Let me know when you've reviewed it document.
25 (Pause)

Page 147

1 **A Okay.**
2 Q Okay? So Exhibit 60 is the proposal that FICO provided
3 to Chubb Europe relating to Decision Simulator; correct?
4 **A This is the -- yeah -- the proposal that Andy sent to**
5 **the client contact relating to that proposal, yes.**
6 Q That FICO provided to Chubb Europe?
7 **A Erm ... so this was prepared by Andy Moffat on behalf of**
8 **FICO.**
9 Q Okay, and the proposal he provided notes that, under
10 (B):
11 "Decision Simulator to be included in existing
12 Blaze ELA contract"; correct?
13 **A That is one of the terms, one of the items in this**
14 **document, yes.**
15 Q And he states it would be regional UK license for use of
16 Decision Simulator; correct?
17 **A That is what it describes here, yes.**
18 Q Okay, and you write to Richard:
19 "Tactical error -- too high and scoped to UK only.
20 Better to start lower with a per-application scope";
21 correct?
22 **A I wrote that, yes.**
23 Q Okay, so you did not think this was a good proposal that
24 FICO made to Chubb Europe? Fair enough?
25 **A I believed that it was not in line with what the**

Page 148

1 **customer was asking for.**
2 Q You were aware that the customer planned to use it in
3 several different countries, not only in the UK;
4 correct?
5 **A According to the wording that Hamish confirmed, yes.**
6 Q And the proposal that was provided was limited to the
7 UK?
8 **A That's what it says here, yes.**
9 Q Had you reviewed this proposal prior to it being sent to
10 Chubb?
11 **A I hadn't, not that I remember, and that's one of the**
12 **reasons I wrote to my boss.**
13 Q Is this one of the documents that you reviewed in
14 preparation for your deposition Exhibit 61?
15 MR HINDERAKER: Is it 61 or 60?
16 BY MS JANUS:
17 Q Oh I'm sorry, 60.
18 **A I believed I reviewed -- I believe I reviewed the email**
19 **but I did not review the attachment.**
20 Q I'm showing you what's been marked as Exhibit 61.
21 (Exhibit 61 marked for identification)
22 Let me know when you've had a chance to review it.
23 (Pause)
24 **A Okay.**
25 Q This is an email from you to Mr Moffat with a copy to

Page 149

1 Collingwood, Jacobson and Lagerweij?
2 **A Correct.**
3 Q And you are responding to Mr Moffat's provision of the
4 proposal to Chubb; correct?
5 **A That's right.**
6 Q You tell Mr Moffat that:
7 "Chubb are likely to come back to us on the UK-only
8 aspect of the proposal".
9 We just discussed that, correct?
10 **A Yes.**
11 Q And that they've asked for usage in a specific
12 application on a pan-European basis. We talked about
13 that; correct?
14 **A I was repeating the language that I had had from --**
15 **sorry -- that I had had confirmed with the client, yes.**
16 Q And then you say:
17 "It is also worth offering the option of some
18 further training to accompany this initiative -- two
19 modules have been launched recently on Decision
20 Requirements Analysis. They seemed receptive to this
21 when we last met".
22 What does that refer to?
23 **A So, I mentioned the business analysis methodology we had**
24 **developed, and ...**
25 (Interruption for refreshments)

Page 150

1 Q You can go ahead.
2 MR HINDERAKER: Sure. We can continue on, is that all right?
3 MS JANUS: Sure.
4 MR HINDERAKER: That's okay.
5 **A Erm ... and my intention would be is if we could offer**
6 **them some training courses which had just been developed**
7 **on this methodology, then that might also be of value to**
8 **the customer.**
9 **BY MS JANUS:**
10 Q And so this -- what is, "Decision Requirements
11 Analysis"?
12 **A It's a business analysis methodology specifically for**
13 **decision automation projects such as the type that we**
14 **see with Blaze Advisor.**
15 Q And tell me, what do you mean by that, a, "Business
16 decision analysis", did you say?
17 **A Decision Requirements Analysis.**
18 Q Okay, so tell me what it is. Explain it to someone
19 who's not in your line of work.
20 **A So one of the biggest challenges clients face when**
21 **they're moving from -- it may be hard-coded decision**
22 **logic or spreadsheet-based specifications, is**
23 **structuring their requirements for automated decisions**
24 **in a way that makes most sense from a business**
25 **perspective and maximizes their ability to change them**

Page 151

1 **quickly and safely once they're in a system such as**
2 **Blaze Advisor, so DRA methodology was specifically**
3 **designed to help clients -- for us to help clients or**
4 **for clients to help themselves to do that business**
5 **analysis as part of the project.**
6 Q So it's to assist your clients in their use of Blaze?
7 **A Actually, it's technology agnostic, and it typically**
8 **happens in the initial phases of the project while**
9 **a client is gathering requirements.**
10 Q In this case the idea would be that it assists Chubb in
11 Chubb's use of Blaze.
12 **A It would be to assist Chubb in gathering their Business**
13 **Requirements relating specifically to the rating engine**
14 **decision, the rating decisions they have, that they**
15 **wanted to build into Blaze Advisor.**
16 Q So it was something that would -- your intent in
17 bringing it up was that it might assist Chubb, here
18 Chubb Europe, in Chubb Europe's use of Blaze in its
19 ratings engine?
20 **A Sorry, could you repeat the question?**
21 Q Your intent was that this Decision Requirements Analysis
22 would assist Chubb Europe in Chubb Europe's use of
23 Blaze?
24 **A Well, actually, specifically, it would assist them with**
25 **the requirements-gathering phase of this project and any**

Page 152

1 **future projects. It's a business analysis methodology.**
2 Q Right, and -- but the point -- I mean, you -- you're
3 working with Chubb Europe on Chubb Europe's use of
4 Blaze; correct?
5 **A Yes, with -- I am working with these individuals, yes.**
6 Q And the intent -- all I'm -- I'm just trying to
7 understand, and I think what you're saying is that
8 you're bringing up this Decision Requirements Analysis
9 in an effort to assist Chubb Europe in its use of Blaze.
10 MR HINDERAKER: Objection, asked and answered, misstates his
11 testimony.
12 **A It's specifically to help them more effectively capture**
13 **their Business Requirements relating to their ratings**
14 **decisions.**
15 **BY MS JANUS:**
16 Q Okay, and the intent is that they use Blaze to implement
17 those Business Requirements, or to optimize those
18 Business Requirements. Is that right?
19 **A There is no necessity to use the Blaze Advisor having**
20 **applied Decision Requirements Analysis. Decision**
21 **Requirements Analysis is a -- technology agnostic.**
22 Q I understand that, but you're talking about ratings
23 decisions, right?
24 **A Yes.**
25 Q Okay, and you're engaged with Chubb Europe in an effort

Page 153

1 to use Blaze in their ratings decisions; correct?
2 **A That is correct, yes. Yes.**
3 Q Okay, and so you're talking about using this Decision
4 Requirements Analysis to make sure that the business
5 needs are being reflected in the ratings decisions, and
6 that is being accomplished through Blaze Advisor;
7 correct?
8 **A So, I recognize that the business analysis I interacted**
9 **with had shown some affinity to our methodology, and so**
10 **this training would benefit them, the business analysts,**
11 **regardless of whether this or future projects were**
12 **deployed into Blaze Advisor, so the target audience for**
13 **Decision Requirements Analysis is the business analyst**
14 **community, so they are linked but not exclusively**
15 **dependent on each other.**
16 Q Who are the business analysts that you were working with
17 at Chubb?
18 **A So, one in the documentation was Sam Long.**
19 Q Anyone else?
20 **A I believe there were others, but it was Sam who showed**
21 **us that he could think in terms of our methodology, and**
22 **very quickly showed that he was able to express his**
23 **requirements in an industry standard way, which is, in**
24 **effect, what the decision requirements analysis is.**
25 Q Does the Decision Requirements Analysis, is that -- is

Page 154

1 there anything for FICO to sell to Chubb in connection
2 with that?
3 **A It was developed -- so, yes and no. There are free --**
4 **freely-available modules that we make available for**
5 **business analysts, free training and free software**
6 **through our cloud services. Of course we use the**
7 **methodology when we deliver projects, so in that sense**
8 **yes. We can sell training on the methodology as well,**
9 **further training, so in that sense yes as well. So**
10 **that's a yes and a no.**
11 Q Did Chubb Europe end up purchasing Decision Simulator?
12 **A I don't believe so, no.**
13 Q I'm showing you what's been marked as Exhibit 62.
14 (Exhibit 62 marked for identification)
15 Let me know when you've had a chance to review the
16 document. (Pause)
17 **A Okay.**
18 Q Look at the second page of Exhibit 62. There's an email
19 from Darcy Sullivan. Who's she?
20 **A He is our -- one of our public relations staff. I'm not**
21 **sure of his exact title.**
22 Q At EMEA?
23 **A I believe he has somewhat of a global remit but he is**
24 **located -- his office is London.**
25 Q And he writes to Russ Schreiber with a copy to you and

Page 155

1 Lauren Dettloff. Who is Lauren?
2 **A She was one of the marketing leads attached to the**
3 **global Decision Management Suite line of business.**
4 Q Where is she located?
5 **A In the US. She's no longer with the company.**
6 Q Do you know where she is now?
7 **A I believe she's working for one of the professional**
8 **services firms.**
9 Q What do you mean, "Professional services firms"?
10 **A One of the big four accounting firms, like an Ernst &**
11 **Young or a PwC.**
12 Q Okay. Darcy Sullivan says:
13 "Russ, Oliver mentioned these to me as possibilities
14 for client news releases or case studies".
15 In the subject line it reads:
16 "Chubb and VHI case studies", correct?
17 **A That's correct. Yes.**
18 Q Okay, so you mentioned Chubb as a possibility for
19 a client news release or case study?
20 **A That's right, yes.**
21 Q And what caused you to do that?
22 **A So, there was a push at the time to develop more**
23 **reference -- reference materials, and knowing that**
24 **Chubb, or knowing what I knew of Chubb, it met -- it**
25 **seemed like a good idea to suggest to Darcy, look, this**

Page 156

1 **is a potential candidate for something, whether it's, as**
2 **I said, reference call or speaking at an event or case**
3 **study or whatever it might be.**
4 Q What do you -- you said, "Knowing what I knew of Chubb
5 it seemed like a good possibility for several things",
6 and what do you mean by that? What are you referring to
7 when you say, "Knowing what I know of Chubb"?
8 **A Going back to what I said earlier today around them**
9 **being a good internal sales story, one that was used to**
10 **show internal people what a client using Blaze Advisor**
11 **in multiple instances might look like, and knowing that**
12 **we were building some relationships with other parts of**
13 **the organization. That's why it seemed like a good time**
14 **to mention it.**
15 Q What do you mean, "Building relationships with other
16 parts of the organization"?
17 **A So, you know, for example, the Chubb -- a number of**
18 **Chubb contacts felt happy asking me for my advice as**
19 **a -- what I saw as a trusted adviser which is one of the**
20 **things we aim for. So, for example, when Ewen reached**
21 **out about this ratings thing, that's the kind of**
22 **relationship we want to build with the customer where**
23 **they feel they can have a discussion with us and we'll**
24 **give them a trusted adviser answer. That's what I**
25 **meant.**

Page 157

<p>1 Q So the breadth of Chubb's use of Blaze Advisor was one 2 of the things that caused you to think of Chubb as 3 a possible candidate for a client news release or an 4 internal sales story?</p> <p>5 A Not just the breadth, but also the fact that we had 6 local -- as in UK -- contacts. Because, again, if we're 7 organizing a regional -- a user group, for example, we 8 want to have people -- people are more likely to come if 9 they are geographically located in the same area, so it 10 was a combination of factors.</p> <p>11 Q Okay. So, the breadth of Chubb, of the Chubb 12 organization's use of Blaze Advisor was one aspect of 13 your recommendation.</p> <p>14 A Not just the breadth, but the --</p> <p>15 Q Correct. I'm not saying it was the only, I'm trying to 16 clarify for the record that the breadth of the Chubb 17 organization's use of Blaze Advisor was one aspect of 18 the reason that you recommended the use of Chubb for 19 a client news release or an internal sales story. Is 20 that correct?</p> <p>21 A So I didn't recommend them, but I did speak to Darcy -- 22 I can't remember how or when. Maybe it was getting 23 a coffee because we're in the same office, I mentioned 24 that on the top of it, of insurance, Chubb is an 25 insurer, VHI are an insurer, these are potential</p> <p style="text-align: right;">Page 158</p>	<p>1 Q And so you're clarifying to Darcy Chubb is managed from 2 the US but VHI isn't?</p> <p>3 A That was my clarification.</p> <p>4 Q Okay, and then you say:</p> <p>5 "Russ -- as some background, Chubb Europe have 6 continued to extend their usage of Blaze Advisor and are 7 looking now to use it for a new rating engine".</p> <p>8 Correct?</p> <p>9 A That's what I wrote, yes.</p> <p>10 Q Okay, and so with your involvement throughout all of 11 these emails that we've seen, Chubb Europe had continued 12 to extend their usage of Blaze Advisor, fair?</p> <p>13 A I think we can separate those two things. The client 14 had continued to extend their usage of the software, and 15 also I had been interacting with the client at various 16 points along this timeline.</p> <p>17 Q Okay, and you were aware of their continued extending of 18 their usage of Blaze Advisor?</p> <p>19 A Yes. As we've seen -- well, I was aware that they were 20 making enquiries around extending their usage, and also 21 keeping in touch with Ewen to see how things were going 22 and as part of that he told me whether certain 23 applications were live or not.</p> <p>24 Q Okay. I think you've answered, "Yes", but just so the 25 record is clear, you wrote in the email:</p> <p style="text-align: right;">Page 160</p>
<p>1 candidates for some kind of activity, and one of the 2 factors contributing towards that was the fact that we 3 had contact with them in the UK. The breadth was almost 4 a secondary consideration, but still a consideration.</p> <p>5 Q So was your -- I guess was the intent here that this 6 would be a UK specific internal sales story?</p> <p>7 A No.</p> <p>8 Q So it was for a global client news release or internal 9 sales story?</p> <p>10 A Potentially. Darcy's role is -- and Lauren's as well -- 11 was global, but the nature of whatever customer success 12 activity they would undertake with us I had no 13 preconception what it might be. It was merely 14 registering them as a potential candidate for some form 15 of customer success engagement.</p> <p>16 Q Then you respond to Darcy and include Russ and Dettloff, 17 and you say:</p> <p>18 "Hi Darcy, Chubb is VHI isn't. (It's managed by an 19 EMEA CP)".</p> <p>20 Oh I see. I take it -- are you referring, then, to 21 the fact that Darcy had said, "You said the 22 relationships are managed from the US"?</p> <p>23 A That's what I -- that's what he wrote --</p> <p>24 Q Okay.</p> <p>25 A -- that I had said.</p> <p style="text-align: right;">Page 159</p>	<p>1 "Chubb Europe have continued to extend their usage 2 of Blaze Advisor..."; correct?</p> <p>3 A Hmm.</p> <p>4 Q Yes?</p> <p>5 A Yes.</p> <p>6 Q Okay, and I think it goes without saying, since you're 7 writing it in an email, but you were aware of Chubb 8 Europe's continued extension of its usage of Blaze 9 Advisor; correct?</p> <p>10 A I was aware, yes.</p> <p>11 Q You mentioned one of the possible things that could 12 happen in connection with this email was a reference 13 call. What is that?</p> <p>14 A A reference call is when a prospective customer who was 15 thinking of choosing us as a vendor will want to speak 16 to other customers as part of that buying process, and 17 a reference call is when the prospective customer speaks 18 to the existing customer.</p> <p>19 Q And so the possibility would be that FICO would be able 20 to give other potential customers a contact at Chubb 21 Europe or the Chubb organizations somewhere as 22 a reference for Blaze Advisor?</p> <p>23 A More broadly as a reference for their dealings with FICO 24 in totality, and it should be noted that there was a big 25 push for what we called the, "Reference program", and so</p> <p style="text-align: right;">Page 161</p>

1 customers could redeem benefits in exchange for taking
2 part in reference activities.
3 Q Do you recall whether Russ responded to Darcy's enquiry?
4 A Well, I can see it didn't happen here. Is that correct?
5 Yes.
6 Q I don't think it's on Exhibit 62.
7 A Yes, sorry, Exhibit 62, and I'm not -- again, I can't
8 recall whether he did or did not.
9 Q Do you recall whether ultimately Chubb was used in
10 a client news release or a case study or an internal
11 sales story or reference call?
12 A I'm not aware of that happening, but it did happen with
13 the other client as a result of this.
14 Q Do you recall what your contact with Chubb was later in
15 2015 after the Decision Simulator proposal was submitted
16 to Chubb Europe and Chubb Europe rejected it?
17 A Yes. So, the timeline I can't perfectly recall, but I
18 do remember Andy Moffat left the organization and Ross
19 Smith became the -- was hired as the insurance practice
20 lead in EMEA, and so I arranged a meeting to introduce
21 Ross to Hamish.
22 Q Do you recall when that -- roughly when that occurred?
23 A It was early in 2016 I believe.
24 Q To the best of your recollection was there communication
25 between you and Chubb, between the Decision Simulator

Page 162

1 proposal and early 2016?
2 A Yeah, I can't recall. There may have been, but I don't
3 think there was anything of significance. Yes. I can't
4 recall.
5 Q And you mentioned Hamish. Was he, at that point, your
6 main point of contact at Chubb Europe?
7 A I would have considered Ewen more of a main contact,
8 whatever that may mean. Hamish was -- seemed a bit more
9 detached, I suppose. Ewen was always quite open.
10 Q Why did you propose a meeting between Russ Smith and
11 Hamish?
12 A So knowing that Chubb was one of our customers and one
13 of our bigger insurance customers, however you might
14 quantify that, Ross had joined the organization.
15 Typically, it's very hard -- it's difficult for new
16 people to get up to speed, so as one of the things I did
17 to help Ross, I said I would introduce him to one of the
18 contacts that we had at Chubb.
19 Q Was there a reason that you chose Hamish rather than
20 Ewen?
21 A Yes. So, Hamish's role is as a global architect. He --
22 I considered him to have a broader visibility of what
23 was going on inside their organization.
24 Q Inside Chubb's organization?
25 A Chubb's organization. Yes.

Page 163

1 Q And by that do you mean sort of more of a global
2 visibility about what was going on in Chubb?
3 A Hamish's title is -- was -- "Global Architect".
4 Q Mm-hmm?
5 A So yes, I considered him to have more of a global
6 perspective.
7 Q In particular was your goal for him to have a global
8 perspective on how Blaze was being used by the Chubb
9 organization?
10 A I would have expected him to have -- or to be more
11 likely to have a global view on a number of topics.
12 Q Is Chubb's use of Blaze one of them?
13 A I had -- yes. I had hoped that he would -- this would
14 fall under his remit since Ewen had introduced him to
15 me, or me to him as part of our discussions around Blaze
16 Advisor.
17 Q And that he would then -- Hamish would then be able to
18 inform Ross Smith about Chubb's use of Blaze?
19 A The intention of the meeting was as an introduction to
20 introduce Ross as the practice lead for insurance to
21 Hamish who I had had a number of interactions with in
22 the past.
23 Q What do you recall -- so you attended the meeting I take
24 it?
25 A Yes.

Page 164

1 Q Okay, and it was Hamish and Ross. Was that it?
2 A The three of us, yes.
3 Q And tell me what you recall discussing at the meeting.
4 A Again, I think -- I recall it was a relationship
5 meeting, effectively, which is what many sales meetings
6 are, so, introduction, catching up with what's been
7 happening on both sides. There was some talk of their
8 office move which had happened in the recent past, and,
9 finally, just making sure that Hamish knew Ross's
10 position within FICO so that he would know who to reach
11 out with if he -- reach out to if he had any questions.
12 Q And you said that was early 2016?
13 A I believe so, yes.
14 Q I'm showing you what's been marked as Exhibit 63.
15 (Exhibit 63 marked for identification)
16 A Okay. (Pause)
17 Q Let me know when you've reviewed the document.
18 A Okay. Okay.
19 Q So the first -- the earliest email in the chain is on
20 page 931, and that's an email dated February 8, 2016
21 from you to James Chaban, and --
22 A Yes.
23 Q -- you say:
24 "I've had some interesting news from one of the
25 global architects at Chubb. Could you please let me

Page 165

1 know who the CP is in the US"; correct?
2 **A Yes.**
3 Q Okay? What was the interesting news?
4 **A I believe it was this technology valuation topic.**
5 Q Is the global architect Hamish?
6 **A Yes.**
7 Q Okay, and how did you receive the interesting news from
8 Hamish if you recall?
9 **A I cannot recall exactly how it was first communicated.**
10 Q Okay, and then you say:
11 "... please let me know who the CP is in the US"?
12 **A Mm-hmm.**
13 Q Is -- did you think that Mike Sawyer was no longer the
14 client partner?
15 **A You never know when somebody is changing positions, so**
16 **my intention was just to obviously make contact with**
17 **Jamie who had had some bad health, so I wanted to have**
18 **a reason to contact him, and, again, sometimes it's**
19 **worth asking the same question twice because you might**
20 **get a different answer.**
21 Q And, I apologize, we've talked about a lot of different
22 people during the deposition today and we may have gone
23 over this, but what was James Chaban's role at FICO?
24 **A I believe at the time he -- I'm not exactly sure whether**
25 **it was still in place at this time, but he was at one**

Page 166

1 point leading the pre-sales team called, "Solution
2 Architects", for DMS on a global basis.
3 Q And was he based in the United States?
4 **A Yes.**
5 Q Is he still with the company?
6 **A Yes.**
7 Q Okay, then he directs you to Mike Sawyer?
8 **A Yes.**
9 Q He says:
10 "... (who I worked with @ Chubb as SSE/AE) ..."
11 Do you know what he's referring to?
12 **A Yes, the account executive which was then called,**
13 **"Solution Sales Executive", the same role but, "AE", was**
14 **the old name, SSE was the then current name.**
15 Q And so he's saying -- what does that mean? "Who I worked
16 with at Chubb as SSE/AE", if you know?
17 **A So the CP is the account manager, effectively, and the**
18 **SSE is the specialist salesperson, so in this case it**
19 **would be the DMS specialist seller.**
20 Q Okay, then Mike writes and says:
21 "Hi Oliver, things are interesting at Chubb right
22 now ... do you have time to talk tomorrow morning...",
23 right?
24 **A Yes, that's what he wrote, yes.**
25 Q Okay, and then you write back, still on February 8, you

Page 167

1 say:
2 "I've just had word..."
3 Or:
4 "I've had word from one of the Chubb Global
5 Architects that they are just about to go into
6 a technology contest of IBM ODM versus FICO Blaze.
7 "As I've done some work with this [London team] I'm
8 planning to visit him for lunch on Wednesday to find out
9 a little more".
10 Correct?
11 **A Correct. That's what it says.**
12 Q "IBM ODM", what is that?
13 **A ODM is a -- on paper -- an equivalent product to Blaze**
14 **Advisor from IBM.**
15 Q So, Hamish had informed you that they were in the
16 process of assessing IBM ODM and whether to switch to
17 that product from FICO Blaze?
18 **A I didn't want -- I wanted to find out more, I guess,**
19 **when I met him, but, as I said, as it quotes here,**
20 **they're just about to go into a technology contest of**
21 **one versus the other.**
22 Q That's what I'm trying to understand. Was it your
23 understanding at the time that a technology contest
24 would be, "Let's try out IBM ODM and see if that works
25 better for us than Blaze or doesn't work as well"?

Page 168

1 **A I'm not sure what I thought, "Contest", meant, but as an**
2 **employee of FICO I wanted to make sure that we were able**
3 **to represent ourselves in that.**
4 Q You did not want Chubb Europe to stop using FICO Blaze;
5 fair?
6 **A I mean, my concern here was at the account level. I**
7 **wanted to make sure this information was fed back to the**
8 **team in the US.**
9 Q And you wanted to make sure that you did what you could
10 to prevent Chubb Europe from switching to IBM ODM from
11 Blaze; correct?
12 MR HINDERAKER: Objection, misstates his testimony.
13 **A Yes, my -- sorry, not, "Yes" -- my intention was to make**
14 **sure this information was known within my company and**
15 **that we could represent -- make sure that the -- our**
16 **product could be represented properly in any internal**
17 **evaluation.**
18 **BY MS JANUS:**
19 Q With the intent that they would not -- that Chubb Europe
20 would not stop using FICO Blaze, right?
21 **A So, my understanding was that this is more of a global**
22 **exercise, so my concern was that perhaps -- I've seen,**
23 **again, our customers do this before, they will choose to**
24 **standardize on one or the other but not necessarily**
25 **both.**

Page 169

<p>1 Q And your intent was to do what you could to prevent</p> <p>2 that, or convince them not to move away from FICO Blaze?</p> <p>3 A Yes, my intention was to make sure the product was</p> <p>4 adequately represented so that they could make a fair</p> <p>5 evaluation.</p> <p>6 Q Then Mike writes back to you, still on February 8, and</p> <p>7 says:</p> <p>8 "I have not heard that from my contacts. In fact,</p> <p>9 we are in discussions with them here in the states on</p> <p>10 two opportunities that would bolt onto/leverage Blaze.</p> <p>11 However, you should be aware that FICO has recently</p> <p>12 served Chubb with a notice of breach of their Blaze</p> <p>13 Advisor license based on their recent merger with Ace.</p> <p>14 We are currently in discussions with Chubb's Vendor</p> <p>15 Management office on this subject. Please do not</p> <p>16 discuss this topic with your contact or provide them any</p> <p>17 guidance as to what the scope of their license allows</p> <p>18 them to do"; correct?</p> <p>19 A That's what was written by Mike, yes.</p> <p>20 Q Is this the first you learned of the dispute between</p> <p>21 FICO and Chubb?</p> <p>22 A I believe so. I remember being disappointed, but yes, I</p> <p>23 believe this is the first I heard about it.</p> <p>24 Q And why were you disappointed?</p> <p>25 A Since my -- or one of my objectives was to encourage</p> <p style="text-align: right;">Page 170</p>	<p>1 can.</p> <p>2 A I did not even consider that this would have an impact.</p> <p>3 Acquisitions and divestitures happen frequently, so</p> <p>4 I had not considered that aspect.</p> <p>5 BY MS JANUS:</p> <p>6 Q Do you know of other situations since as -- you've been</p> <p>7 at FICO where a license dispute occurred due to a merger</p> <p>8 or an acquisition or, as you put it, a divestiture?</p> <p>9 A I'm not aware of any. These things tend to be handled</p> <p>10 by the account team in a smooth way.</p> <p>11 Q Related -- so, are you aware of any other instance in</p> <p>12 which FICO has taken the position that a license has</p> <p>13 been breached due to a merger or acquisition --</p> <p>14 MR HINDERAKER: Objection, lack of foundation, but answer to</p> <p>15 the extent you can.</p> <p>16 A Yes. Again, as part of my role that's not something</p> <p>17 that I would even be notified of.</p> <p>18 BY MS JANUS:</p> <p>19 Q I understand, but I'm asking about your knowledge. Just</p> <p>20 the extent of your knowledge on the topic.</p> <p>21 A And, furthermore, I'm not aware of anything that fits</p> <p>22 that description.</p> <p>23 Q In response -- oh, I guess you mentioned that you</p> <p>24 understood Ace was licensed for Blaze Advisor. Is that</p> <p>25 something you had involvement with?</p> <p style="text-align: right;">Page 172</p>
<p>1 referencability, this is not something which would help</p> <p>2 that to happen.</p> <p>3 Q By, "Encourage referencability", you mean create</p> <p>4 a situation in which Chubb would be willing to provide</p> <p>5 references to potential FICO customers?</p> <p>6 MR HINDERAKER: Asked and answered.</p> <p>7 A Yes, references being one thing, but attendance at --</p> <p>8 and presenting at customer forums being another, also</p> <p>9 case studies, et cetera.</p> <p>10 BY MS JANUS:</p> <p>11 Q Okay, then you say, on the first page of Exhibit 63:</p> <p>12 "Hello Mike, can you be more specific on the nature</p> <p>13 of the dispute? I understand that Ace were licensed for</p> <p>14 Blaze Advisor some time ago, but have no idea whether it</p> <p>15 has been renewed or not, or whether maintenance is being</p> <p>16 paid. Are there any topics you'd like me to bring up on</p> <p>17 Wednesday regarding current or future projects?"</p> <p>18 Did you know at this time, prior to receiving the</p> <p>19 email from Mike Sawyer, that Chubb had merged with Ace?</p> <p>20 A I believe I had seen it in the news.</p> <p>21 Q Had you talked with anyone at Chubb about the merger?</p> <p>22 A No.</p> <p>23 Q Did it occur to you that the merger would create an</p> <p>24 issue with Chubb's license for Blaze Advisor?</p> <p>25 MR HINDERAKER: Objection, lack of foundation, answer if you</p> <p style="text-align: right;">Page 171</p>	<p>1 A I had no personal involvement in that, in the client or</p> <p>2 in anything around the licensing to that client.</p> <p>3 Q It's just something that you were generally aware of?</p> <p>4 A As a historic -- as a historic record, yes.</p> <p>5 Q You then -- let's see, Mike asks for a phonecall with</p> <p>6 you in response to your question about the nature of the</p> <p>7 dispute, and then you say, "Yes", you're available. Did</p> <p>8 you end up having a phonecall with Mr Sawyer?</p> <p>9 A I remember speaking to Mike, yes.</p> <p>10 Q Okay, and tell me everything you recall about that</p> <p>11 conversation.</p> <p>12 A I don't recall an awful lot, I have to say. I think we</p> <p>13 talked about the client and just confirmed, I think, his</p> <p>14 guidance around not mentioning anything around the</p> <p>15 topic, or any guidance around the scope of the license,</p> <p>16 so I cannot recall anything further.</p> <p>17 Q What did he say was the basis for FICO's claim that the</p> <p>18 license was breached?</p> <p>19 MR HINDERAKER: Objection, assumes facts.</p> <p>20 A Sorry, could you repeat the question?</p> <p>21 BY MS JANUS:</p> <p>22 Q What did Mr Sawyer say during the conversation about the</p> <p>23 basis for FICO's position that the license was breached?</p> <p>24 A I don't recall him describing the specifics of what led</p> <p>25 to what he describes in the email.</p> <p style="text-align: right;">Page 173</p>

<p>1 Q Did you say to him, "How did Chubb breach the license?"</p> <p>2 A I don't recall saying that.</p> <p>3 Q Were you curious about how Chubb allegedly breached the</p> <p>4 license?</p> <p>5 A Not especially, knowing that I had received notification</p> <p>6 that a notice had been served, so no, I did not enquire</p> <p>7 what led to that being the case.</p> <p>8 Q Did Mr Sawyer say anything about Chubb's ability to use</p> <p>9 Blaze in Europe?</p> <p>10 A No. He did not advise of any -- he did not give any</p> <p>11 guidance on that.</p> <p>12 Q Did he give you any information about Chubb's use of the</p> <p>13 Blaze software anywhere other than the United States?</p> <p>14 A I don't believe he did, no.</p> <p>15 Q So to the best of your recollection the conversation</p> <p>16 simply consisted of him confirming for you what he said</p> <p>17 in his email that you shouldn't discuss the scope of the</p> <p>18 Chubb license during your meeting on Wednesday?</p> <p>19 A Yes. So, it was just confirming exactly what I should</p> <p>20 and should not do, and I believe I even -- I believe the</p> <p>21 meeting with Hamish had already been scheduled, and so I</p> <p>22 did question Mike, "Shall we still go ahead with the</p> <p>23 meeting", and I believe he -- again, my recollection is</p> <p>24 he said, "Yes, but just bear in mind these</p> <p>25 restrictions".</p> <p style="text-align: right;">Page 174</p>	<p>1 Advisor. Ace have (apparently) standardized on IBM's</p> <p>2 ODM".</p> <p>3 Is that correct?</p> <p>4 A That is what is written here, yes.</p> <p>5 Q Okay, and then Mike says, "Thanks Oliver"; correct?</p> <p>6 A That's right.</p> <p>7 Q During the meeting that you had with Hamish and -- and</p> <p>8 this is the meeting with Ross Smith, right?</p> <p>9 A Yes.</p> <p>10 Q -- did you discuss the merger with Ace?</p> <p>11 A The merger wasn't discussed but the technology</p> <p>12 rationalization was the focus of conversation.</p> <p>13 Q Okay, and what was discussed about it?</p> <p>14 A Again, I cannot recall the exact topics, but this was my</p> <p>15 summary to Mike of the relevant facts which were to</p> <p>16 confirm that what we thought was going ahead was,</p> <p>17 indeed, going ahead, in terms of the technology</p> <p>18 rationalization project.</p> <p>19 Q Did you talk with Hamish about reasons that Chubb should</p> <p>20 stick with Blaze Advisor during the meeting?</p> <p>21 A I believe I would have done that. Again, I can't recall</p> <p>22 the meeting, but I have many meetings, so I cannot</p> <p>23 recall the exact topics, but I would have most likely</p> <p>24 explained some of the reasons that our solution is</p> <p>25 strong. Again, it's something I do with clients, it's</p> <p style="text-align: right;">Page 176</p>
<p>1 Q And the restrictions were, "Don't talk about the scope</p> <p>2 of the license"?</p> <p>3 A These two he listed here, yes. Don't mention the matter</p> <p>4 and do not discuss what the scope of their license</p> <p>5 allows them to do, in his words.</p> <p>6 Q Did that indicate to you that FICO intended to change</p> <p>7 its position regarding what the scope of the license</p> <p>8 would be going forward?</p> <p>9 MR HINDERAKER: Objection, assumes facts pending the</p> <p>10 position, lack of foundation.</p> <p>11 A It didn't suggest anything to me, other than the facts</p> <p>12 of the matter, which is what's written here.</p> <p>13 BY MS JANUS:</p> <p>14 Q I'm showing you what's been marked as Exhibit 64.</p> <p>15 (Exhibit 64 marked for identification)</p> <p>16 MR HINDERAKER: Thank you. (Pause)</p> <p>17 BY MS JANUS:</p> <p>18 Q Let me know when you've had a chance to look at it.</p> <p>19 A Yes, I've reviewed it.</p> <p>20 Q So, on February 11, 2016 you wrote to Mike Sawyer and</p> <p>21 said:</p> <p>22 "Hi Mike, as promised, an update from yesterday's</p> <p>23 meeting. It looks as if Chubb are indeed proceeding</p> <p>24 with a technology rationalization project, triggered by</p> <p>25 the merger with Ace, that includes their usage of Blaze</p> <p style="text-align: right;">Page 175</p>	<p>1 just making -- be very open with them about what the</p> <p>2 strengths of our solution are.</p> <p>3 Q Did you speak with Mike after sending this email?</p> <p>4 A I don't believe so. I believe I considered my job done</p> <p>5 with this. I closed the loop on the conversation. I</p> <p>6 gave them an update from the meeting.</p> <p>7 Q What happened next in terms of your dealings with Chubb?</p> <p>8 A Knowing what Mike had told me in the previous exhibit,</p> <p>9 63, I waited for contact around -- from Hamish -- around</p> <p>10 this -- the valuation, but took no further action,</p> <p>11 I don't believe, knowing that the legal matter was</p> <p>12 underway.</p> <p>13 Q Did you hear anything more from anyone at Chubb?</p> <p>14 A I don't believe I did. I don't recall anything further.</p> <p>15 Q So was this February 11, 2016 -- or, I'm sorry,</p> <p>16 "Yesterday's meeting", so was the February 10, 2016</p> <p>17 meeting that you had with Hamish your last contact with</p> <p>18 anyone at Chubb?</p> <p>19 A I believe it was the last or one of the last. I can't</p> <p>20 recall any specific further interactions. Sorry,</p> <p>21 I can't recall.</p> <p>22 Q Okay. Do you -- did you at some point learn that</p> <p>23 Mr Sawyer took the position with Chubb that the Chubb</p> <p>24 license for Blaze was limited to the United States?</p> <p>25 A Did I hear from Mike on that topic?</p> <p style="text-align: right;">Page 177</p>

1 Q Yeah.
2 **A Is that the question? I don't believe so.**
3 Q Would it surprise you if Mr Sawyer took the position
4 that the Chubb license for Blaze was limited to the
5 United States?
6 MR HINDERAKER: Objection, lack of foundation.
7 **A I was not privy to the account planning for this account**
8 **or any of Mike's strategies or plans.**
9 **BY MS JANUS:**
10 Q But if Mr Sawyer took the position with Chubb that the
11 Blaze license was limited to the United States, that
12 would be inconsistent with Chubb Europe's continued work
13 with FICO on Blaze; correct?
14 MR HINDERAKER: Objection, lack of foundation, assumes
15 facts.
16 **A Sorry, could you repeat the question one more time?**
17 **BY MS JANUS:**
18 Q Can you read it back?
19 (RECORD READ)
20 MR HINDERAKER: And I object also on the basis to the extent
21 that it's asking for a legal conclusion.
22 **A Yes, I don't know exactly what is meant by,**
23 **"Inconsistent".**
24 **BY MS JANUS:**
25 Q We've gone through several documents here today in which

Page 178

1 you are part of conversations relating to the scope of
2 Chubb's Blaze license; correct?
3 **A Several of these contain information that I was told**
4 **about the meaning -- the scope, according to an**
5 **interpretation. Sorry.**
6 **So yeah, several of these documents contain**
7 **information in which the scope is discussed.**
8 Q And that scope, according to Mr Sawyer and Mr Schreiber
9 and Mr Hill, was global -- a global enterprise Blaze
10 license; correct?
11 **A And also that was mentioned by the client as well.**
12 Q That's not my question, though. Please answer my
13 question.
14 **A There were a number of mentions of global license.**
15 Q Could you read back my question please?
16 (RECORD READ)
17 **A It was described as global, yes.**
18 Q Okay, and Mr Sawyer described it as global; correct?
19 **A In which --**
20 Q Take a look at Exhibit 47.
21 **A Yeah.**
22 Q Okay? At the bottom of the page Mr Sawyer wrote on
23 August 14 2012:
24 "They do have a Global ELA for Blaze and have an
25 automated UW Application running in the UK already".

Page 179

1 Do you see that?
2 **A Yes.**
3 Q Okay?
4 **A Yes.**
5 Q And we could go through others in which the license is
6 described by FICO employees as, "Global"; correct?
7 **A Yes. Sorry, I just didn't recall that specific mention.**
8 Q Mr Hill described the license as global to you; correct?
9 Take a look at Exhibit 48 if you need to refresh your
10 recollection.
11 **A Yes.**
12 Q Mr Schreiber described the license as global; correct?
13 **A He did. Yes.**
14 Q Take a look at Exhibit 65 please.
15 (Exhibit 65 marked for identification)
16 Let me know when you've had a chance to review it
17 (Pause)
18 Have you reviewed it?
19 **A Yes.**
20 Q If you take a look at the email from Mr Sawyer to Elie
21 at Chubb at the top of page 3091, this email is dated
22 January 8, 2016; correct?
23 **A January 8, 2016. Yes.**
24 Q And Mr Sawyer says:
25 "Thanks for the call this afternoon. As discussed,

Page 180

1 attached are Chubb's Blaze Advisor license agreement for
2 your review. Chubb acquired its current Blaze Advisor
3 license scope via 3 incremental purchases and I have
4 attached all 3 documents in chronological order".
5 Is that consistent with your recollection that there
6 are three documents that comprised the Chubb license?
7 MR HINDERAKER: Objection, lack of foundation, misstates his
8 testimony. Presumes --
9 MS JANUS: I'm not misstating any testimony, I'm asking
10 a question.
11 MR HINDERAKER: You're presuming that he has a recollection
12 of three incremental licenses.
13 MS JANUS: No I'm not, I'm asking if he has a recollection.
14 MR HINDERAKER: That's not what your question was. That's
15 not what you said.
16 MS JANUS: Well that's what my question meant to be.
17 MR HINDERAKER: Well then as what you mean.
18 MS JANUS: I did.
19 MR HINDERAKER: Do you understand the question now? There
20 is a different question on the table now.
21 MS JANUS: No there isn't. Stop coaching the witness. My
22 question is, is it your understanding that there are
23 three documents that comprise the Chubb license?
24 **A I do not recall how many documents there were relating**
25 **to this topic.**

Page 181

<p>1 Q "The net result...", Mr Sawyer results: 2 " ... is that Chubb currently has a perpetual 3 Enterprise Wide License for the Java and .NET versions 4 of the platform for use in the territory of the US". 5 Do you see that? 6 A I can see that's what's written here, yes. 7 Q Mr Sawyer is taking the position that the license was 8 for use in the territory of the US? 9 MR HINDERAKER: Stipulate that that's what the document 10 says. Objection, lack of foundation as to Sawyer's 11 intentions. 12 A Yes. I mean it's -- the documentation that a perpetual 13 enterprise wide license for Java and .NET for platform 14 for use in the territory in the US. 15 BY MS JANUS: 16 Q And that's inconsistent with his previous statements to 17 you and others at FICO relating to the scope of the 18 Chubb Blaze Advisor license; correct? 19 A For a layperson, without having the means to have 20 interpreted the contracts, it seems to be different to 21 what was said earlier. 22 Q Do you know who Tom Carretta is? 23 A I believe he's our head of -- I'm not sure his exact 24 titles, but head of our legal team. 25 Q "Our", meaning FICO?</p> <p>Page 182</p>	<p>1 territory"? 2 A I do not know specifically what he's referring to here. 3 Q Would it surprise you to learn that one of those 4 applications is the use of Blaze that you were involved 5 with, with Chubb Europe? 6 MR HINDERAKER: Objection, asks for speculation, assumes 7 facts of Mr Carretta. 8 A I have no means of knowing what he means by, "These two 9 non-compliant applications". 10 BY MS JANUS: 11 Q Okay, but in your mind the applications that were being 12 used by Chubb Europe were certainly within the scope of 13 the license; correct? 14 MR HINDERAKER: Objection, asks for a legal conclusion, lack 15 of foundation. 16 A I have no way to interpret the contracts as they were, 17 nor have I tried to. 18 BY MS JANUS: 19 Q Sure, but you did your due diligence when you were 20 working with Chubb Europe over the years; correct? 21 We've gone through that. 22 MR HINDERAKER: Objection, argumentative. 23 A So I've no way of -- I've no interpretation of the 24 license as it was, as to exactly what is and isn't 25 included within -- by this definition of applications</p> <p>Page 184</p>
<p>1 A Yes. 2 Q He's based in the United States? 3 A I believe so. 4 Q This is a document marked Exhibit 66. 5 (Exhibit 66 marked for identification) 6 MR HINDERAKER: Thank you. 7 BY MS JANUS: 8 Q Let me know when you've had a chance to review the 9 document. (Pause) 10 A I've read the cover letter. 11 Q Okay. This is an email from Mr Carretta to Andrew Hopp 12 at Chubb dated March 11, 2016; correct? 13 A Yes. 11 March 2016. 14 Q Okay, and Mr Carretta states: 15 "I understand the respective business teams have 16 made some progress. While this progress has elongated 17 longer than expected and has been exasperated by finding 18 two non-compliant applications outside the authorized US 19 territory, I am hopeful we will receive a substantive 20 and reflective response on Monday..." 21 Again, FICO is referring to the authorized territory 22 as the US; correct? 23 A That is what Tom Carretta has written here, yes. 24 Q Do you know what he's referring to as the, "Two 25 non-compliant applications outside the authorized US</p> <p>Page 183</p>	<p>1 outside of US territory. 2 BY MS JANUS: 3 Q At the time that you were assisting Chubb Europe with 4 its use of Blaze, you and others at FICO Europe checked 5 to see whether that use was within the scope of the 6 license; correct? 7 MR HINDERAKER: Asked and answered. Rely on the testimony. 8 BY MS JANUS: 9 Q You can answer. 10 MR HINDERAKER: You can go ahead and -- I mean, if you 11 understand the question you should answer. We've been 12 through this. 13 A Yes, information was received saying that this was 14 a global license from both the client and from FICO. 15 BY MS JANUS: 16 Q First from FICO; correct? 17 A Yes. Yes. 18 Q So it would surprise you, wouldn't it, if FICO was now 19 taking the position that Chubb Europe's use of the Blaze 20 software was outside the scope of the license? 21 MR HINDERAKER: Objection, argumentative. 22 A Again, I think it relies on an interpretation of legal 23 documents, exactly what is meant by Tom's sentence here 24 of two non-compliant applications. 25</p> <p>Page 185</p>

<p>1 BY MS JANUS:</p> <p>2 Q Do you understand that FICO is taking the position in</p> <p>3 this lawsuit that use of Blaze in the UK was outside the</p> <p>4 scope of the license?</p> <p>5 MR HINDERAKER: Objection to the extent that counsel is</p> <p>6 asking for privileged attorney/client communication.</p> <p>7 You can answer the question if it's not based upon any</p> <p>8 information that I may have given you or that</p> <p>9 Mr Woodward may have given you. If you have a basis</p> <p>10 independent of us you should answer the question but if</p> <p>11 you don't, then I instruct you not to answer.</p> <p>12 A Again, without having a means to interpret the contract</p> <p>13 I don't know what exactly is meant by this statement or</p> <p>14 the position that FICO is said to be taking.</p> <p>15 BY MS JANUS:</p> <p>16 Q Do you have an understanding of whether FICO is taking</p> <p>17 the position in this lawsuit that use of the Blaze</p> <p>18 software by Chubb in the UK was outside the scope of the</p> <p>19 license?</p> <p>20 MR HINDERAKER: I'm going to give you the same advice and</p> <p>21 the same instruction, that if you have an understanding</p> <p>22 one way or the other that is independent of any</p> <p>23 conversations with myself or Mr Woodward or any other</p> <p>24 FICO lawyer, then you should answer the question. If</p> <p>25 your understanding is based upon those privileged</p> <p>Page 186</p>	<p>1 software, to entities located in the UK, Canada and</p> <p>2 Australia. Do you see that?</p> <p>3 A Yes, I can see that sentence.</p> <p>4 Q And then it states:</p> <p>5 "... which is in violation of the license granted by</p> <p>6 the agreement".</p> <p>7 Do you see that?</p> <p>8 A Yes I can see that sentence.</p> <p>9 Q Okay, so do you understand, based on Exhibit 67, that</p> <p>10 FICO has taken the position in this lawsuit that Chubb's</p> <p>11 use of the Blaze software in Europe was in violation of</p> <p>12 the license?</p> <p>13 MR HINDERAKER: Objection, lack of foundation, asks for</p> <p>14 a legal conclusion, outside the scope of this witness's</p> <p>15 knowledge.</p> <p>16 A Yes, I am unable to draw a conclusion on that.</p> <p>17 BY MS JANUS:</p> <p>18 Q You just don't know, based on reading this?</p> <p>19 A I lack the legal expertise to draw a meaning from it,</p> <p>20 from this within the context of the overall document.</p> <p>21 Q Okay, and if it was, in fact, the case that FICO was</p> <p>22 taking the position in this lawsuit that the use of</p> <p>23 Blaze software by Chubb in the UK was in violation of</p> <p>24 the license, that would be inconsistent with the</p> <p>25 statements we've reviewed by FICO employees and your</p> <p>Page 188</p>
<p>1 attorney/client communications then I instruct you not</p> <p>2 to answer.</p> <p>3 A Okay. I choose not to answer that question.</p> <p>4 BY MS JANUS:</p> <p>5 Q I'm showing you what's been marked as Exhibit 67.</p> <p>6 (Exhibit 67 marked for identification)</p> <p>7 Have you seen this document before?</p> <p>8 A Why -- no I haven't, no.</p> <p>9 Q I'm going to be asking you about FICO's response to</p> <p>10 interrogatory number 4. Let me know when you've had</p> <p>11 a chance to review that. (Pause)</p> <p>12 A Would you like me to read the whole of interrogatory</p> <p>13 number 4?</p> <p>14 MR HINDERAKER: I believe she is asking about interrogatory</p> <p>15 number 4, so yes you have to read the interrogatory</p> <p>16 which is a question and then there is a response. I</p> <p>17 believe she is asking for you to both read the</p> <p>18 interrogatory and the response.</p> <p>19 A Okay. (Pause)</p> <p>20 I've reviewed the interrogatory.</p> <p>21 Q Okay, and this is signed by FICO on page 11; correct?</p> <p>22 A Yes. There is a signature there.</p> <p>23 Q Okay, and in response to interrogatory number 4 FICO</p> <p>24 takes the position in this lawsuit that Federal has</p> <p>25 disclosed the works, which FICO has defined as the Blaze</p> <p>Page 187</p>	<p>1 work with Chubb Europe in connection with Chubb Europe's</p> <p>2 use of Blaze software. Is that fair?</p> <p>3 A Sorry, could you repeat the question, please?</p> <p>4 Q Is there something about the question you didn't</p> <p>5 understand?</p> <p>6 A Yes. That's why I'm asking for it to be repeated.</p> <p>7 (RECORD READ)</p> <p>8 Again, based on my limited ability to interpret</p> <p>9 these documents it would seem as if they're not aligned.</p> <p>10 VIDEOGRAPHER: Excuse me, you've got five minutes of record</p> <p>11 time on here.</p> <p>12 BY MS JANUS:</p> <p>13 Q I'm showing you what's been marked as Exhibit 68.</p> <p>14 (Exhibit 68 marked for identification)</p> <p>15 This is an email from Tom Carretta to Andrew Hopp</p> <p>16 dated March 23, 2016. (Pause)</p> <p>17 Have you reviewed the document?</p> <p>18 A Yes.</p> <p>19 MR HINDERAKER: Let me just note for the record that this is</p> <p>20 a rule 408 communication.</p> <p>21 BY MS JANUS:</p> <p>22 Q In the first paragraph of Mr Carretta's email he states:</p> <p>23 "Additionally ..."</p> <p>24 In the middle of that paragraph -- are you with me?</p> <p>25 "Additionally"?</p> <p>Page 189</p>

<p>1 A Yes.</p> <p>2 Q " ... we have become aware of two UK installations of</p> <p>3 the subject software, which is outside the scope of the</p> <p>4 Agreement".</p> <p>5 Do you see that?</p> <p>6 A Yes I can. I can see that.</p> <p>7 Q Okay. News to you that it would be outside the scope of</p> <p>8 the agreement; correct?</p> <p>9 MR HINDERAKER: Object to the question as asking for a legal</p> <p>10 conclusion, lack of foundation. To the extent it's</p> <p>11 factually based, asked and answered.</p> <p>12 A Sorry, the question --</p> <p>13 BY MS JANUS:</p> <p>14 Q It would be news to you that the UK installations are</p> <p>15 outside of the scope of the agreement; correct?</p> <p>16 MR HINDERAKER: I have the same objections.</p> <p>17 A That is different to what I was -- I had been told by</p> <p>18 others.</p> <p>19 BY MS JANUS:</p> <p>20 Q And do you think it's odd that he has said on March 23,</p> <p>21 2016:</p> <p>22 " ... we have become aware of two UK installations</p> <p>23 of the subject software ...", as if this is a new</p> <p>24 development according to FICO?</p> <p>25 MR HINDERAKER: Objection, argumentative, lack of foundation</p> <p>Page 190</p>	<p>1 the subject software ..."</p> <p>2 I'm sorry:</p> <p>3 " ... of two UK installations of the subject</p> <p>4 software, which is outside the scope of the Agreement".</p> <p>5 My question to you is; do you know why Mr Carretta</p> <p>6 phrases that as if FICO is just becoming aware of the UK</p> <p>7 installations of the subject software?</p> <p>8 MR HINDERAKER: Earlier objections of lack foundation. Go</p> <p>9 ahead and answer if you can.</p> <p>10 A I do not know. I do not.</p> <p>11 BY MS JANUS:</p> <p>12 Q Did anyone consult you about FICO taking the position</p> <p>13 that the UK installations of Blaze would be outside the</p> <p>14 scope of the agreement?</p> <p>15 A No.</p> <p>16 Q The next paragraph says:</p> <p>17 "The proper license by Chubb & Sons is limited to</p> <p>18 installation in the United States..."</p> <p>19 Again, that is inconsistent with what your</p> <p>20 understanding had been throughout your work with Chubb</p> <p>21 in Europe. Is that fair?</p> <p>22 MR HINDERAKER: Earlier objections of improper to the extent</p> <p>23 it's asking for a legal conclusion, lack of foundation,</p> <p>24 asked and answered.</p> <p>25 A I did not have an interpretation of the legal agreement,</p> <p>Page 192</p>
<p>1 as to Carretta.</p> <p>2 A I cannot speak for why that information was presented at</p> <p>3 that time.</p> <p>4 BY MS JANUS:</p> <p>5 Q Okay, because you had -- you and your team at FICO in</p> <p>6 Europe had communicated at length with FICO in the</p> <p>7 United States relating to Chubb Europe's use of Blaze;</p> <p>8 correct? Throughout the course of Chubb Europe's use.</p> <p>9 MR HINDERAKER: Object to the question to the extent it</p> <p>10 mischaracterizes the testimony. We'll rely on the</p> <p>11 testimony.</p> <p>12 A Sorry, could you repeat the question, please?</p> <p>13 BY MS JANUS:</p> <p>14 Q I think we've got to break for the tape.</p> <p>15 A Okay.</p> <p>16 MR HINDERAKER: How much further --</p> <p>17 VIDEOGRAPHER: Going off-the-record. The time is 4.50.</p> <p>18 (4.50 pm)</p> <p>19 (Short break)</p> <p>20 (4.56 pm)</p> <p>21 VIDEOGRAPHER: Back on the record. The time is 4.57.</p> <p>22 BY MS JANUS:</p> <p>23 Q All right. We were looking at Exhibit 68, and just to</p> <p>24 be sure the record is clear on this, Mr Carretta states:</p> <p>25 "... we have become aware of two UK installations of</p> <p>Page 191</p>	<p>1 and I was not aware of a physical installation location</p> <p>2 of the software.</p> <p>3 BY MS JANUS:</p> <p>4 Q And your testimony on that from earlier today was that</p> <p>5 you did not know where it was installed, and you did not</p> <p>6 view where it was installed as significant.</p> <p>7 A I did not see that as significant, no, or having been</p> <p>8 told it was a global license.</p> <p>9 Q Based on your dealings with Chubb Europe, I take it it</p> <p>10 was also Chubb Europe's understanding, as far as you</p> <p>11 knew, that it was a global license for use of Blaze. Is</p> <p>12 that fair?</p> <p>13 MR HINDERAKER: Asked and answered. Go ahead.</p> <p>14 A It was the statement of one of the contacts of the</p> <p>15 client that that was the case.</p> <p>16 BY MS JANUS:</p> <p>17 Q I'm showing you what's been marked as Exhibit 69.</p> <p>18 (Exhibit 69 marked for identification)</p> <p>19 Let me know when you've had a chance to review this</p> <p>20 document. (Pause)</p> <p>21 Q Have you reviewed it?</p> <p>22 A Yes.</p> <p>23 Q All right. Have you seen this document before?</p> <p>24 A I do not believe so.</p> <p>25 Q This is the FICO notice of termination of the Chubb</p> <p>Page 193</p>

1 license; correct?
2 MR HINDERAKER: Objection, lack of foundation. We'll
3 stipulate that that is the termination letter but this
4 witness doesn't know.
5 BY MS JANUS:
6 Q In the middle paragraph Mr Carretta writes to Mr Hopp at
7 Chubb:
8 "... I notified you via email on March 11, 2016 that
9 FICO had become aware of a further material breach due
10 to the use of the Software outside the United States in
11 two applications utilized in the United Kingdom".
12 Do you see that?
13 A Yes.
14 Q So does it appear to you that the use of Blaze by Chubb
15 Europe was one of the reasons Mr Carretta was citing for
16 the termination of the Chubb license?
17 A Again, not having been familiar with the terms of the
18 license, I had no way of knowing whether these
19 applications were made available for the United Kingdom
20 or were deployed in the United Kingdom, so that would
21 be a -- I would be unable to say for sure whether the
22 two were the same thing.
23 Q Okay, so you're not sure whether Mr Carretta is
24 referring to the applications that you worked with Chubb
25 Europe on over the years?

Page 194

1 A I'm not aware of any firm link. I mean, one might make
2 an assumption that they are, but I don't happen -- I
3 wouldn't want to assume that they were the same.
4 Q You're just not sure?
5 A I'm not sure whether they are the same.
6 Q Okay. If they were the same, then this position would
7 be inconsistent with your work on behalf of FICO in
8 Europe with Chubb in Europe relating to Blaze; correct?
9 MR HINDERAKER: I have the same set of objections regarding
10 asking for a legal conclusion, lack of foundation in
11 respect to Carretta, asked and answered with respect to
12 any factual basis for the question, and you can repeat
13 yourself again. You know, answer the question if you
14 can, please.
15 A Again, looking at this in isolation, and at face value,
16 it would seem to be different to the guidance I had
17 received from a number of individuals.
18 BY MS JANUS:
19 Q And inconsistent with how you and FICO in Europe
20 conducted yourself in the relationship with Chubb in
21 Europe; correct?
22 MR HINDERAKER: Same set of objections. Go ahead and answer
23 if you can.
24 A Sorry, could you explain the link between how we
25 conducted ourselves and this paragraph?

Page 195

1 BY MS JANUS:
2 Q I'm asking if the position that Chubb Europe's use of
3 Blaze is a breach of the license agreement, if that
4 position is inconsistent with the history of FICO
5 Europe's work with Chubb Europe relating to Chubb
6 Europe's use of Blaze.
7 MR HINDERAKER: I have the same set of objections as before,
8 lasts for this whole series of questions, so rather than
9 repeat them, so the extent you can answer factually, go
10 ahead.
11 A Again, without having come to a conclusion on the
12 meaning of this document, I don't see a mention of Chubb
13 Europe in this case, but it does talk about applications
14 utilized in the United Kingdom.
15 BY MS JANUS:
16 Q Yes. (Pause)
17 You done with the answer?
18 A Yes.
19 Q Okay. My question was different. It was; do you agree
20 with me that FICO's statement in the letter that use of
21 the software in two applications in the UK was a breach
22 of the license agreement, is inconsistent with the way
23 that FICO Europe conducted itself in connection with
24 working with Chubb Europe and Chubb's use of Blaze in
25 Europe?

Page 196

1 A I would say there is room for confusion, given what was
2 described as the global agreement.
3 Q They're inconsistent --
4 MR HINDERAKER: Asked and answered. Argument. Asked and
5 answered.
6 BY MS JANUS:
7 Q -- right?
8 A I maintain my answer that without having a means to
9 interpret the license agreement I cannot say whether the
10 global license is equivalent to, for example, being able
11 to use the system globally but only hosted in the
12 United States, for example.
13 Q Okay. Do you know of any instance in which FICO has
14 interpreted a global license to mean that it can only be
15 hosted in one specific location?
16 MR HINDERAKER: Objection, lack of foundation.
17 A Yes, again I think that question could only be answered
18 from the point of an individual --
19 BY MS JANUS:
20 Q I'm asking for your own knowledge. You either know of
21 those situations or you don't.
22 MR HINDERAKER: Same objection.
23 A Sorry, just so I can be clear that the answer I'm giving
24 is correct could you repeat the question in full?
25

Page 197

1 BY MS JANUS:
2 Q You just mentioned something about the software being
3 hosted in a particular location; correct?
4 **A Yes.**
5 Q What made you mention that?
6 **A So, clients of ours can often, especially in centralized**
7 **organizations, they can host centrally and make**
8 **available multipally, or our clients can also deploy**
9 **into separate instances. So, the reason I mention that**
10 **is that what I see here mentions two applications**
11 **utilized in the United Kingdom but it's not necessarily**
12 **clear to me exactly what, "Utilized", might mean in**
13 **terms of the physical location of the software.**
14 Q What is the practical effect, if any, of the software
15 being hosted in multiple locations?
16 **A Can you give me an example of what you mean by,**
17 **"Practical"?**
18 Q What difference does it make?
19 **A The software is designed to be used on a network, but**
20 **for some customers there are restrictions around where**
21 **data can reside, where processing can reside, so that's**
22 **why there's sometimes a distinction between where**
23 **something is utilized and where something is residing.**
24 Q So are you saying that you know of specific licenses
25 that have restrictions about where data can reside and

Page 198

1 where processes can reside?
2 **A So what I do know is that there are -- there is**
3 **legislation that restricts where data can be processed.**
4 Q Laws?
5 **A Yes.**
6 Q Okay. We're talking about licenses, FICO licenses.
7 **A Mm-hmm.**
8 Q Right?
9 **A Yes.**
10 Q Okay. So, do you know of any FICO licenses that
11 restrict where data resides or processes reside?
12 MR HINDERAKER: Objection, lack of foundation.
13 **A Yes, I can't answer -- I can't name any from memory.**
14 **BY MS JANUS:**
15 Q Okay. In your view, though, if a license is global,
16 there would not be restrictions about where the Blaze
17 Advisor software could reside. Is that correct?
18 MR HINDERAKER: Objection, argumentative, lack of
19 foundation.
20 **A That would rely on an interpretation of the license**
21 **agreement.**
22 **BY MS JANUS:**
23 Q Is there a reason that if an entity obtained a global
24 license that it should not be able to install the Blaze
25 Advisor software where it is, in fact, using it?

Page 199

1 MR HINDERAKER: Objection, lack of foundation.
2 **A I cannot think of any specific reasons, but there may be**
3 **a business reason for a contract to include that**
4 **restriction.**
5 **BY MS JANUS:**
6 Q What is a possible business reason for that?
7 **A Again, I can't think of a specific business reason but**
8 **it may be something which is a restriction of use,**
9 **presumably.**
10 Q So why would a company want to install the Blaze
11 software in a location that is close to or proximate to
12 the location that is using the software?
13 MR HINDERAKER: Objection, lack of foundation, asks for
14 a hypothetical, vague and indefinite.
15 **A There are a number of potential reasons as to why**
16 **a company might want to do that.**
17 **BY MS JANUS:**
18 Q What are some of those reasons?
19 **A It may be around the location of the data which is often**
20 **held, or held in the same location as where the**
21 **processing takes place, according to laws restricting**
22 **the transfer of data outside of certain boundaries.**
23 Q Anything else?
24 **A There may be technical reasons -- performance, for**
25 **example.**

Page 200

1 Q "Performance", you said?
2 **A Yes.**
3 Q It would improve -- it could improve performance to have
4 the software installed at --
5 **A Potentially.**
6 Q -- it at the site that it's being used?
7 **A Potentially.**
8 Q Okay. Would it make sense to you, based on your
9 familiarity with Blaze and how it's used, for FICO to
10 grant a global license that actually prevented an entity
11 from installing Blaze at the locations that it was using
12 Blaze?
13 MR HINDERAKER: Objection, lack of foundation, asks for
14 speculation.
15 **A I'm not somebody who contributes to the creation of**
16 **license agreements so I'm not aware of what specific**
17 **business reasons might be taken into account.**
18 **BY MS JANUS:**
19 Q Do you -- can you come up with any reason why a license
20 like that would make sense?
21 MR HINDERAKER: Same objections. Go ahead.
22 **A It could make sense should both parties want to make it**
23 **clear where processing using the system is permitted.**
24 **BY MS JANUS:**
25 Q Do you know of any -- strike that.

Page 201

1 Do you know whether Chubb Europe's use of Blaze has
2 changed in any way since the merger with Ace?
3 MR HINDERAKER: Objection, lack of foundation.
4 **A I'm not aware, nor would I have been made aware, having**
5 **no responsibility for the account.**
6 **BY MS JANUS:**
7 Q Okay. Do you know whether anyone at FICO in Europe has
8 any information to support the position that Chubb
9 Europe's use of the Blaze software has changed in any
10 way since the merger?
11 MR HINDERAKER: Same objection.
12 **A I'm not aware and nor would I have been made aware**
13 **should that be the case.**
14 **BY MS JANUS:**
15 Q Who would be aware at FICO, if anyone?
16 **A The question is if the usage of the software had**
17 **changed. Specifically what about the usage of the**
18 **software?**
19 Q Any aspect of the usage of the software.
20 **A So, clients, this being licensed software, are free to**
21 **use it within the agreement that they have with FICO and**
22 **they don't need to inform us of things like changes in**
23 **the number of transactions they're processing, for**
24 **example.**
25 Q Mm-hmm?

Page 202

1 **A There's no obligation on the client to inform us of**
2 **those sorts of things.**
3 Q Okay, and so do you -- is there anyone at FICO to your
4 knowledge who would know whether Chubb has changed its
5 use of Blaze in any way since its merger with Ace?
6 **A So, I mean, aside from the documents which are in front**
7 **of me which -- this one talks about a termination --**
8 **I can only make an assumption about how the client has**
9 **reacted to that. I don't know what they have done in**
10 **reaction to this, so I don't specifically know who would**
11 **be aware of -- who from FICO would be aware of any**
12 **changes in usage.**
13 Q I'm showing you what's been marked as deposition Exhibit
14 70.
15 (Exhibit 70 marked for identification)
16 Let me know when you've reviewed this document.
17 (Pause)
18 **A Okay.**
19 Q So, this is an email, the earliest email is one that you
20 wrote to Ross Smith on February 11, and you say:
21 "Update on Chubb -- how does this sound to you?"
22 **A Yes.**
23 Q And then you include a couple of paragraphs of detail
24 relating to the discussion you had with Hamish on the
25 technology rationalization project; correct?

Page 203

1 **A Yes. This was a summary email, a version of which we**
2 **saw in one of the other exhibits.**
3 Q And you state in this draft that you emphasize the
4 benefits of the wider FICO ecosystem to Chubb in Europe;
5 correct? It's on page 4778.
6 **A Yes. So, as I previously mentioned, this is something**
7 **which I thought I would have done as part of the meeting**
8 **with Hamish.**
9 Q And then Ross emails Collingwood and says, is this okay
10 for us to share with the US CP:
11 "Or should we be looking to keep our powder dry?"
12 Do you have any idea about what he meant by that?
13 **A I'm not sure what his intention was.**
14 Q Collingwood writes back and says:
15 "Can we just say we have and continue to engage with
16 Chubb EMEA and they have asked us to take part in an
17 evaluation against IBM...", right?
18 **A Yes. Yes. That's what he wrote.**
19 Q And that's what you ended up doing, right?
20 **A That's correct.**
21 Q You didn't provide the detail to Sawyer relating to your
22 meeting with Chubb in Europe; correct?
23 **A The key detail was retained, that the evaluation was**
24 **still planned to go ahead.**
25 Q But none of the other information was included, right?

Page 204

1 **A No. It was effectively a concise version without losing**
2 **the key detail.**
3 Q Okay. Why did you decline to provide the other
4 information to Mike Sawyer?
5 **A So, Mark's guidance was to keep it to the essentials.**
6 Q Why?
7 MR HINDERAKER: Objection, lack of foundation.
8 **A Again, I cannot speak on behalf of Mark.**
9 **BY MS JANUS:**
10 Q Sure. What's your understanding of why you and your
11 team approached it this way?
12 **A So, this was Mark's recommendation. Mark is not part of**
13 **my team.**
14 Q What's your understanding of why you and Mark approached
15 it this way?
16 **A I took my guidance from Mark around keeping the update**
17 **to essential information.**
18 Q So you have no idea why?
19 **A No, because the key information was still contained**
20 **within the message that I sent.**
21 Q And then you write:
22 "Hi both...", to Ross and Mark:
23 "... what's our strategy to getting a share of the
24 negotiated new deal, should we get past the vendor
25 comparison?"

Page 205

<p>1 What did you mean by that?</p> <p>2 A So I was perhaps thinking a couple of steps ahead and,</p> <p>3 optimistically, that, should we win the comparison,</p> <p>4 should our technology be chosen as a result, then there</p> <p>5 would be a discussion between the sales leads in the US</p> <p>6 and EMEA around how to attribute any revenue, based on</p> <p>7 the contributions that each team had made.</p> <p>8 Q So you wanted EMEA to get a share of the revenue that</p> <p>9 FICO would recognize from a renegotiation of the license</p> <p>10 with Chubb?</p> <p>11 A That was what I was, in my question, asking Mark to</p> <p>12 think about.</p> <p>13 Q Because you thought that EMEA should get a share of the</p> <p>14 new deal, right?</p> <p>15 A So if we had taken part in the evaluation and</p> <p>16 contributed towards that, then yes, that would be what I</p> <p>17 would like the team to have achieved.</p> <p>18 Q And then Mark writes back and says:</p> <p>19 "I've escalated this to Steve ..."</p> <p>20 Who's that?</p> <p>21 A Steve Hadaway who is the general manager for the EMEA</p> <p>22 region.</p> <p>23 Q And he says:</p> <p>24 "This isn't a global account and we should and will</p> <p>25 get comped on this, especially if we are driving the</p> <p style="text-align: right;">Page 206</p>	<p>1 would be a proportion of the revenue ... what is the</p> <p>2 word ... allocated to the EMEA region.</p> <p>3 Q Is that why he advised you to take out the details</p> <p>4 relating to your meeting with Hamish?</p> <p>5 MR HINDERAKER: Objection as to lack of foundation.</p> <p>6 BY MS JANUS:</p> <p>7 Q In your email to Mike Sawyer?</p> <p>8 A Yes. He didn't say to remove details. What he said is</p> <p>9 in this email here, which is in summary to keep the</p> <p>10 communication to the essentials of the -- of what was</p> <p>11 discussed at the meeting.</p> <p>12 Q Is that why he wanted you to just say we have and</p> <p>13 continue to engage in Chubb EMEA with Chubb EMEA?</p> <p>14 MR HINDERAKER: Lack of foundation.</p> <p>15 A Sorry, could you be more specific about the question?</p> <p>16 BY MS JANUS:</p> <p>17 Q Well, I'm just -- it seems odd to me that you're</p> <p>18 communicating with one of your colleagues at FICO, Mike</p> <p>19 Sawyer, about the meeting that you had with Hamish, and</p> <p>20 you're being instructed by Mark to withhold information</p> <p>21 about the meeting. "Keep your powder dry".</p> <p>22 MR HINDERAKER: Object to counsel's characterization and</p> <p>23 argument about the document. It speaks for itself.</p> <p>24 A I did not make any -- draw any meaning from keeping the</p> <p>25 powder dry, as it says in Ross's email, and I took</p> <p style="text-align: right;">Page 208</p>
<p>1 comparison".</p> <p>2 What does that mean, "This isn't a global account"?</p> <p>3 A So, there is a list of global accounts at FICO which</p> <p>4 have a named Global Account Manager, and Mark's</p> <p>5 observation was that this account was not on that list.</p> <p>6 Q Chubb was not on that list?</p> <p>7 A That is my interpretation of what Mark is saying. I did</p> <p>8 not check the list to confirm, but that is my</p> <p>9 interpretation of what he's saying here.</p> <p>10 Q And then he says:</p> <p>11 "The US aren't entitled to negotiate a global deal"?</p> <p>12 A That's what he has written, yes.</p> <p>13 Q Why did he write that?</p> <p>14 MR HINDERAKER: Objection, lack of foundation.</p> <p>15 A I think that is -- I suspect that is Mark thinking</p> <p>16 perhaps aspirationally about his -- the part that he</p> <p>17 would have to play in any revised deal.</p> <p>18 BY MS JANUS:</p> <p>19 Q So he's thinking that if the license is renegotiated</p> <p>20 it's an opportunity for FICO Europe to finally get some</p> <p>21 of the revenue from Chubb's use of Blaze?</p> <p>22 MR HINDERAKER: Same objection as to foundation.</p> <p>23 A So, I suspect what Mark is thinking, and this is what</p> <p>24 I was suggesting to him as well, was that if we can show</p> <p>25 that we've contributed to the evaluation then there</p> <p style="text-align: right;">Page 207</p>	<p>1 Mark's suggestion at face value and kept the update to</p> <p>2 just the essentials, specifically the technology</p> <p>3 comparison still being imminent.</p> <p>4 MS JANUS: Okay, let's go off-the-record.</p> <p>5 VIDEOGRAPHER: Going off-the-record. The time is 5.36 pm.</p> <p>6 (5.36 pm)</p> <p>7 (A short break)</p> <p>8 (5.43 pm)</p> <p>9 VIDEOGRAPHER: Back on the record, the time is 5.43.</p> <p>10 BY MS JANUS:</p> <p>11 Q Mr Clark, you understand you're still under oath?</p> <p>12 A I do.</p> <p>13 Q Okay. We've talked about many documents here today, and</p> <p>14 at one point I asked you in connection with one of the</p> <p>15 conversations relating to the scope of Chubb's license</p> <p>16 whether you had been asked to look into Chubb's</p> <p>17 corporate formation or the details of legal entities</p> <p>18 that were using Blaze. Do you recall that?</p> <p>19 A I recall the discussion.</p> <p>20 Q Okay, and my question to you, just to make sure the</p> <p>21 record is clear, is; throughout your time at FICO, while</p> <p>22 you were working with Chubb, were you ever a party to</p> <p>23 a conversation involving individuals at FICO relating to</p> <p>24 Chubb's legal organization or the details of the</p> <p>25 entities?</p> <p style="text-align: right;">Page 209</p>

<p>1 MR HINDERAKER: So, some more guidance. If any information</p> <p>2 that you have on that subject is limited to</p> <p>3 conversations with lawyers -- FICO lawyers -- or myself,</p> <p>4 then you should respond by saying your only information</p> <p>5 is from privileged communications, and then I'll</p> <p>6 instruct you not to answer anything further. If you</p> <p>7 have a response to her question that does not depend</p> <p>8 upon privileged communications then please answer it.</p> <p>9 A My only information is from privileged communications.</p> <p>10 BY MS JANUS:</p> <p>11 Q Okay, so at no point did you believe that the</p> <p>12 permissibility of Chubb Europe's use of Blaze was</p> <p>13 dependent upon, or related to the structure of Chubb's</p> <p>14 corporate entities?</p> <p>15 MR HINDERAKER: Object to the question. Lack of foundation.</p> <p>16 Goes beyond -- asks for a legal conclusion from a lay</p> <p>17 witness, asked and answered, and I think this will be</p> <p>18 the last question and the last answer.</p> <p>19 A So no, I had no interest in or insight into the</p> <p>20 structure of the legal entities on the client side.</p> <p>21 MS JANUS: Okay. Thank you. That's all the questions I</p> <p>22 have.</p> <p>23 MR HINDERAKER: I think we've conceded our seven hours and</p> <p>24 no quarrel, and I have no questions, and read and sign.</p> <p>25 MS JANUS: Okay. Thank you.</p> <p>Page 210</p>	
<p>1 VIDEOGRAPHER: Going off-the-record. The time is 5.47.</p> <p>2 (5.47 pm)</p> <p>3 (Whereupon the deposition was concluded at 5.47 pm)</p> <p>4 -----o0o0o-----</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>Page 211</p>	

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2
3
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CERTIFICATE OF COURT REPORTER

I, EMMA WHITE, a Court Reporter of London, England,
hereby certify the witness, OLIVER CLARK, was first duly
sworn to testify to the truth, that the foregoing
deposition was taken at the time and place stated
herein, and that the said deposition was recorded
stenographically by me and then reduced to printing
under my direction, and constitutes a true record of the
testimony given by said witness.

I certify the inspection, reading and signing of
said deposition were NOT waived by counsel for the
respective parties and by the witness.

I certify I am not a relative or employee of any of
the parties, or a relative or employee of either
counsel, and I am in no way interested directly or
indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my seal of office on this 17th day of August,
2018.

Emma White

1 STATE OF _____)

2 COUNTY OF _____)

3

4 I, OLIVER CLARK, the witness herein, having read the
5 foregoing testimony of the pages of this deposition, do
6 hereby certify it to be a true and correct transcript,
7 subject to the corrections, if any, shown on the
8 attached page.

9

10

11

12

13

OLIVER CLARK

14

15

Sworn and subscribed to before me,

16

17

This _____ day of _____, 2018.

18

19

_____.

20

Notary Public

21

22

23

24

25

1 INSTRUCTIONS TO WITNESS

2

3 Please read your deposition over carefully and make any
4 necessary corrections. You should state the reason in the
5 appropriate space on the errata sheet for any corrections that are
6 made.

7 After doing so, please sign the errata sheet and date it.

8 You are signing same subject to the changes you have noted
9 on the errata sheet, which will be attached to your deposition.

10 It is imperative that you return this original errata sheet
11 to the deposing attorney within thirty (30) days of receipt of the
12 deposition transcript by you. If you fail to do so, the deposition
13 transcript may be deemed to be accurate and may be used in court.

14

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1 E R R A T A

2

3 I wish to make the following changes, for the following reasons:

4

5 PAGE LINE

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7 REASON: _____

8 ___ CHANGE: _____

9 REASON: _____

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11 REASON: _____

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24 WITNESS' SIGNATURE

DATE

25

<u>WORD INDEX</u>			
< \$ >	149 4:1	13 189:16 190:21	< 5 >
\$500,000 96:13	155 4:1	194:8	5.36 209:5, 6
< 0 >	165 4:1	2018 1:15 4:1 6:1,	5.43 209:8, 9
0001 4:1	16cv-1054 6:7	8 144:17, 23 212:22	5.47 211:1, 2, 3
001 4:1, 1, 1	16-cv-1054 1:3	213:17	50 4:1 65:5 91:17,
002 4:1	175 4:1	203 5:6	20, 25 99:15 142:15
005 4:1	1770 133:8	225K 98:18	51 4:1 100:9, 10
006 4:1	17th 212:21	23 118:6 121:18, 22	104:8
022 4:1	18 144:1	122:2 189:16	52 4:1 105:17, 18
026 4:1	180 4:1	190:20	53 4:1 109:13, 14
092 4:1	183 4:1	24 100:19 104:9, 11	112:15 115:9
< 1 >	187 5:3	105:3	118:8, 12
1 6:3 31:5 133:23	189 5:4	26 131:8 133:10, 14	54 4:1 112:10, 11
1.24 100:3, 4	193 5:5	27 106:13	55 4:1 117:25
10 91:12, 14 93:18,	1978 126:9 128:18	279 4:1	118:1, 12
21 112:16 177:16	< 2 >	28 71:1 85:8 87:6,	55402 2:4, 9
10.03 38:19, 20	2 31:5 72:14	8 90:21	56 4:1 121:7, 8, 13
10.13 38:22, 23	97:11 133:25	< 3 >	57 4:1 125:19, 20
100 4:1	2.45 138:19, 20	3 181:3, 4	133:4
105 4:1	2.49 75:7	30 214:11	58 4:1 126:1, 2, 4, 8
109 4:1	2.54 138:22, 23	3091 180:21	137:2, 5
10th 92:2, 3	20 138:11	3200 2:8	59 4:1 139:3, 4, 12
11 1:15 6:1, 8	200 2:3	3-6 144:19 145:18	146:11
112:20 113:21	2005 15:21	< - >	< 6 >
175:20 177:15	2007 15:12, 21	-371-5292 2:10	6.53 133:11
183:12, 13 187:21	2011 14:12, 22 17:4	< 4 >	60 4:1 147:22, 23
194:8 203:20	2012 71:1 75:15	4 187:10, 13, 15, 23	148:2 149:15, 17
11.14 70:10, 11	76:7, 10 77:16	4.50 191:17, 18	61 4:1 149:14, 15,
11.22 70:13, 14	78:2, 5 82:16	4.56 191:20	20, 21
112 4:1	179:23	4.57 191:21	612 2:5, 10
118 4:1	2013 47:18 50:3	4000 2:4	62 4:1 155:13, 14,
12 118:12	51:10 53:2 56:8	40-60 65:5	18 162:6, 7
12.20 99:7	58:18 59:2, 20	408 189:20	63 4:1 165:14, 15
12.24 99:25 100:1	60:2, 4, 7, 10 85:8	455 4:1	171:11 177:9
12.30 99:6	87:7, 10 90:21	46 4:1 70:19, 21	64 4:1 175:14, 15
121 4:1	91:12, 14 92:1, 2	77:17 85:16, 20	65 4:1 180:14, 15
125 4:1	93:18, 22 100:19	47 4:1 77:12, 13	66 4:1 183:4, 5
126 4:1	104:9	78:8 80:2 82:4	67 5:1 187:5, 6
129 5:4	2014 14:8, 9, 16	84:2 179:20	188:9
13 75:7, 15 76:7, 9	17:5 61:6 62:22	4778 204:5	68 5:4 189:13, 14
78:5	66:24	48 4:1 84:24, 25	191:23
133 5:5	2015 14:17 17:6	85:6 102:13 180:9	69 5:5 193:17, 18
139 4:1	67:1 106:13 111:9,	4809-3 100:16	6AF 1:13 6:12
14 77:15 78:2	10 112:16 118:6, 10	49 4:1 91:4, 6	< 7 >
82:16 179:23	121:18, 22 122:2	< - >	70 4:1 5:6 203:14,
148 4:1	133:10 162:15	-492-7349 2:5	15
	2016 67:22 162:23		759 4:1
	163:1 165:12, 20		
	175:20 177:15, 16		
	180:22, 23 183:12,		

77 4:1	167:12, 17 169:6	adoption 131:1	agnostic 152:7
775 4:1	172:10 178:7, 7	147:14, 16	153:21
777 4:1	201:17 202:5	advice 157:18	ago 10:4, 4 13:4
778 5:6	206:24 207:2, 4, 5	186:20	77:4 171:14
78 6:12	accounting 156:10	advise 94:7 174:10	agree 8:25 34:15
780 1:12	accounts 207:3	advised 57:9 67:19,	40:17 196:19
	accurate 48:5	22 208:3	agreed 107:7
< 8 >	62:10 214:13	adviser 157:19, 24	111:13 112:7 116:8
8 3:5 137:9	accurately 69:1	Advisor 19:14, 16,	agreement 56:16
165:20 167:25	Ace 170:13 171:13,	21 20:2 33:2 42:6,	74:24 107:5, 6, 15
170:6 180:22, 23	19 172:24 175:25	9 43:4, 14 49:2, 5,	122:8, 19 123:1
80 2:9	176:1, 10 202:2	16, 21 50:20, 23	134:12 181:1
85 4:1	203:5	51:3, 6, 18 53:12	188:6 190:4, 8, 15
	achieve 53:5 99:2	54:16 55:12, 21, 22	192:4, 14, 25 196:3,
< 9 >	achieved 206:17	56:9, 10 57:8 58:1	22 197:2, 9 199:21
9 92:1 111:9, 10	acquired 15:12	69:8, 12, 22 70:2, 3	202:21
9.05 1:15 6:2, 8	181:2	86:5 91:9 93:6, 8,	agreements 35:11
91 4:1, 1	acquisition 172:8, 13	19, 22 94:3, 6 95:1,	201:16
931 165:20	Acquisitions 172:3	25 96:2, 3, 5 97:18	ahead 9:12 12:20
932 4:1	acting 54:17	98:4 101:14, 18, 22,	27:8 28:20 30:21
9351-4 110:2	action 68:15 104:5	24 105:12 106:10	31:16 41:7 52:2
967 4:1	177:10 212:19	107:1, 25 108:1, 23	56:2 60:12 66:2
972 4:1	activities 13:14	109:3, 4, 8 110:14,	74:7 79:13 151:1
981 4:1	162:2	21 111:19 112:17	174:22 176:16, 17
988 4:1	activity 13:13	113:1 117:19	185:10 192:9
998 4:1	159:1, 12	118:3, 9, 16 119:14	193:13 195:22
	actual 120:3 123:11	120:11, 14 121:4	196:10 201:21
< A >	ad 59:5, 24 60:21	124:18 126:19	204:24 206:2
abbreviated 82:10	67:2, 5 69:19	127:2, 12 130:21	Ahinderaker@merch
ability 30:4 43:22	add 95:24 96:3	136:22 137:20, 24	antgould.com 2:10
44:6 108:23	138:11, 12	138:4, 10 143:9	aim 157:20
115:24 151:25	added 141:17	151:14 152:2, 15	Algorithmics 15:1, 4,
174:8 189:8	additional 26:17	153:19 154:6, 12	6, 7
able 40:9 120:23	32:7 33:20 41:25	157:10 158:1, 12, 17	aligned 189:9
122:6 154:22	42:7, 17, 23 43:4, 6,	160:6, 12, 18 161:2,	alignment 17:24
161:19 164:17	15, 23 73:19 74:10	9, 22 164:16 168:14	allegedly 174:3
169:2 197:10	119:13 133:23	170:13 171:14, 24	ALLEN 2:11 6:17
199:24	134:16 135:11, 16	172:24 176:1, 20	allocated 208:2
abstract 74:24	136:1, 5, 11	181:1, 2 182:18	allow 19:18 92:18
accepted 74:15	Additionally 189:23,	199:17, 25	93:1
access 99:21 129:20	25	AE 167:10, 13, 16	allowed 55:2 78:24
accessed 129:20	add-on 130:19	affect 38:13 67:24	79:17 107:25
accessible 89:3	137:22 146:13	68:18	allows 92:24 147:6
accident 94:8	address 7:7, 9, 10	affinity 154:9	170:17 175:5
accompany 150:18	85:10	affixed 212:21	alternative 127:14
accomplished 154:6	adequately 170:4	afraid 121:23	146:25
account 19:7 26:20	ad-hoc 93:16	Africa 38:3 133:2	America 95:2, 7
31:18 32:6, 8, 10	adjournment 70:12	140:1	amount 37:24
63:5, 12 64:2, 3, 9	100:2	afternoon 123:18	analysis 90:6 92:8,
83:11 84:13 98:25	admin 110:10	180:25	15, 16, 23 93:12
123:7, 12 130:2	128:14		150:20, 23 151:11,

12, 16, 17 152:5, 21 153:1, 8, 20, 21 154:4, 8, 13, 24, 25 analyst 154:13 analysts 154:10, 16 155:5 Andrew 183:11 189:15 Andy 63:12 64:2 123:3, 6, 10, 18 125:6 131:6 148:4, 7 162:18 anecdotal 48:9 anecdotally 45:23 answer 9:12, 25 10:5 27:16 31:16 33:5, 7 37:19, 20 40:13, 18 42:11 56:6 62:10 76:16 78:15 79:13 98:1 105:6 114:22 122:20 157:24 166:20 171:25 172:14 179:12 185:9, 11 186:7, 10, 11, 24 187:2, 3 192:9 195:13, 22 196:9, 17 197:8, 23 199:13 210:6, 8, 18 answered 12:18 40:2, 12, 17 41:1, 6, 7 42:2 58:3 60:12 67:7 77:4 103:10 108:3, 5, 7, 14 129:15 153:10 160:24 171:6 185:7 190:11 192:24 193:13 195:11 197:4, 5, 17 210:17 answering 9:1 Answers 5:2 8:9 104:17 anybody 63:25, 25 apologies 121:21 apologize 166:21 app 83:19, 20 apparently 78:12 176:1 appealing 131:2 147:14	appear 136:19, 24 194:14 APPEARANCES 2:1 appears 71:2 75:11, 15 79:14 84:10 85:24 87:3 90:13, 18 91:11, 14 96:21 104:12 118:2 134:14, 18 137:3 application 22:7 35:2, 5 46:15 54:15 82:12, 23 94:10 111:20 126:20, 21 127:3, 8, 10, 12, 15, 19, 21 128:2, 5 130:7, 14 132:20 138:8 146:12, 13, 15 147:2 150:12 179:25 applications 35:13, 14, 16 46:2, 6 94:5 160:23 183:18, 25 184:4, 9, 11, 25 185:24 194:11, 19, 24 196:13, 21 198:10 applied 99:3 153:20 applying 26:11 approach 93:12 approached 205:11, 14 appropriate 214:5 appropriately 27:10 138:12 approval 72:14 approximate 12:14, 16, 25 approximately 11:21 146:10 approximation 12:16 April 144:24 archetype 124:1 architect 122:13 124:14 163:21 164:3 166:5 Architects 123:19 165:25 167:2 168:5 archive 99:19 archived 99:20	area 17:7 44:5 46:14 84:21 126:20 127:3, 9, 12 128:2, 5 132:22 147:3 158:9 areas 42:7, 14, 14, 18 45:24 46:1 49:7, 11 54:24 argue 57:17 Argument 197:4 208:23 argumentative 25:10 30:18 31:8 57:14 58:14 80:11 81:2 83:8 87:1 103:11 122:21 136:23 184:22 185:21 190:25 199:18 arm's 24:2, 3 arranged 162:20 arrangement 128:3 articulation 24:25 asap 130:23 ascertain 39:20, 21 40:21 aside 43:12 203:6 asked 8:10 12:18 40:2, 12, 17 41:1, 6 42:2 58:2 60:12 67:7 77:3 90:12 103:10 104:10 108:3, 5, 7, 13 129:9, 15 133:5 150:11 153:10 171:6 185:7 190:11 192:24 193:13 195:11 197:4, 4 204:16 209:14, 16 210:17 asking 16:24 32:5 54:14 62:4, 6 65:8 67:16 68:11, 12 73:7 74:1 75:6 79:3, 7, 14 104:12, 19 114:4 122:10, 13, 18 134:6, 8, 14, 19 135:24 136:3 149:1 157:18 166:19 172:19 178:21 181:9, 13	186:6 187:9, 14, 17 189:6 190:9 192:23 195:10 196:2 197:20 206:11 asks 55:23 83:14 88:15 115:5 135:3 136:4 173:5 184:6, 14 188:13 200:13 201:13 210:16 aspect 28:24 48:25 49:4, 18 150:8 158:12, 17 172:4 202:19 aspects 31:21 aspirationally 207:16 assess 49:10 assessing 28:11 31:3 39:15, 19 168:16 assessments 90:6 assigning 102:20 assigns 113:7 assist 102:22 103:2 122:13 152:6, 12, 17, 22, 24 153:9 assistance 93:15 assisting 52:11 103:5 114:23 185:3 assists 152:10 assume 8:23 78:18, 21 195:3 assumed 55:1 105:1 assumes 25:10 30:19 34:19 48:16 53:14 69:23 173:19 175:9 178:14 184:6 assumption 54:19 55:15 104:5 195:2 203:8 attached 111:14, 15, 24 156:2 181:1, 4 213:8 214:9 attachment 149:19 attempt 29:20 attempting 40:23 attend 119:4 attendance 63:22 171:7
--	--	---	--

<p>attended 45:9 63:17, 19 145:6, 12 146:6 164:23 attendees 62:21 attention 59:17 attorney 9:9 186:6 187:1 214:11 ATTORNEYS 1:21 attractive 99:4 147:5 attribute 206:6 attributed 132:22 audience 154:12 August 71:1 75:7, 15 76:7, 9 77:15 78:2, 5 82:16 85:7 87:8, 8 90:21 179:23 212:21 Australia 188:2 authoritative 103:8 authorized 183:18, 21, 25 automated 82:12 92:20, 25 151:23 179:25 automation 151:13 auto-renewal 104:24 auto-renewals 53:16 58:19 100:24 101:12 104:10 available 53:8 101:9 104:18 155:4 173:7 194:19 198:8 average 145:21 aware 11:11 31:25 32:1 35:11 44:18 53:10 57:25 58:7, 10 62:18 63:2, 16, 23, 25 82:17 96:6 117:5, 7 142:12 149:2 160:17, 19 161:7, 10 162:12 170:11 172:9, 11, 21 173:3 190:2, 22 191:25 192:6 193:1 194:9 195:1 201:16 202:4, 4, 12, 12, 15 203:11, 11 awful 173:12</p>	<p>< B > B.Sc 16:21 Bachelor 16:14, 23 back 14:19 22:25 30:2 34:24 38:23 39:11 46:13 47:23 48:13 58:17 60:22 70:14 100:4 108:11 111:4 113:10, 21 114:18, 21 115:9 116:25 128:13 130:1, 23 131:8, 23 132:20 133:4 135:6 137:2 138:23 146:11 150:7 157:8 167:25 169:7 170:6 178:18 179:15 191:21 204:14 206:18 209:9 background 160:5 back-to-back 71:20 back-up 89:1 bad 78:22 166:17 ballpark 11:24 65:3 bank 35:15 base 89:8 based 21:11 24:22 35:1, 4, 12, 21 42:24 43:4, 23 54:3, 18, 25 55:10, 16 56:19 60:4 61:22 62:4, 6 74:21 75:22 76:16, 23 89:14 107:20 110:10 133:3, 17 136:3 167:3 170:13 183:2 186:7, 25 188:9, 18 189:8 190:11 193:9 201:8 206:6 basis 59:9, 23 67:2, 5 68:20, 22 81:8 130:4 146:16 150:12 167:2 173:17, 23 178:20 186:9 195:12 Bates 4:1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1,</p>	<p>1, 1, 1, 1, 1, 1, 1 5:1, 4, 5, 6 75:4 bear 174:24 becoming 192:6 began 60:4 behalf 2:2, 7 27:4 28:25 92:18 148:7 195:7 205:8 believe 7:19, 21 14:16 15:21 27:9 35:23 36:20 38:12 47:8, 12, 18 49:18 50:4 51:11 58:21 60:20, 24 61:6 65:16 66:3, 9 68:22 71:11 84:16, 17 89:7 94:7, 7 95:7 99:19, 20 101:15 102:14 103:16 109:4 111:21 112:23, 25 115:1 117:24 118:19, 25 119:3, 8, 16 120:12 121:6 122:4 124:19 126:17 127:24 128:9, 12, 23 133:12 136:16 137:15 138:10 140:17 142:2 144:20 145:10, 10 149:18 154:20 155:12, 23 156:7 162:23 165:13 166:4, 24 170:22, 23 171:20 174:14, 20, 20, 23 176:21 177:4, 4, 11, 14, 19 178:2 182:23 183:3 187:14, 17 193:24 210:11 believed 102:18 120:12 148:25 149:18 believes 73:24 belonged 133:1 benefit 45:5 154:10 benefits 44:11 162:1 204:4 best 32:14 45:14 68:4 87:20 90:25 105:6 111:23</p>	<p>112:1 119:12 162:24 174:15 Better 148:20 168:25 beyond 79:20 210:16 big 97:11, 15 156:10 161:24 bigger 163:13 biggest 151:20 bit 76:22 163:8 black 143:5 Blaze 19:13, 14, 16, 21 20:2 33:2 42:6, 9 43:4, 14 49:2, 4, 16, 21 50:20, 22 51:3, 5, 17 52:17 53:12 54:1, 11, 16 55:12, 21, 22 56:9, 10 57:8, 25 58:19 67:6, 18 69:8, 12, 22 70:2, 3 72:11, 19 73:21 74:17, 21 75:17 76:8, 14 77:1 78:6, 10, 24 79:17, 24, 25 80:9, 19 81:20 82:11, 17, 25 84:7 86:5, 9, 15, 16, 23 87:19 89:17 90:9, 17 91:9 93:6, 8, 19, 22 94:3, 5 95:1, 25 96:2, 3, 5 97:18 98:4 101:14, 17, 22, 24 102:5 104:19 105:11 106:10 107:1, 24 108:1, 23 109:3, 3, 7 110:14, 21 111:19 112:17 113:1, 17 114:5 115:19 116:5 117:2, 15, 19 118:3, 9, 16 119:14 120:11, 14, 23, 24 121:4 124:18 126:19 127:2, 11 130:17, 18, 21 132:5 133:23 134:10, 16 135:7, 17 136:1, 5, 8, 22 137:7, 10, 20, 23 138:4, 10 143:1, 1, 4, 8 148:12 151:14</p>
---	--	---	--

152:2, 6, 11, 15, 18, 23 153:4, 9, 16, 19 154:1, 6, 12 157:10 158:1, 12, 17 160:6, 12, 18 161:2, 8, 22 164:8, 12, 15, 18 168:6, 13, 17, 25 169:4, 11, 20 170:2, 10, 12 171:14, 24 172:24 174:9, 13 175:25 176:20 177:24 178:4, 11, 13 179:2, 9, 24 181:1, 2 182:18 184:4 185:4, 19 186:3, 17 187:25 188:11, 23 189:2 191:7 192:13 193:11 194:14 195:8 196:3, 6, 24 199:16, 24 200:10 201:9, 11, 12 202:1, 9 203:5 207:21 209:18 210:12 Bolded 95:15 bolt 170:10 book 113:19 boss 149:12 bottom 75:1 82:4 85:6 126:9 137:9, 13 179:22 boundaries 200:22 brand 47:3 59:14 breach 170:12 174:1 194:9 196:3, 21 breached 172:13 173:18, 23 174:3 breadth 158:1, 5, 11, 14, 16 159:3 break 38:15, 21 70:5 99:7 138:16, 18, 21 191:14, 19 209:7 breaking 99:11, 22 brief 14:20 briefly 139:24 bring 119:16 120:4, 5 171:16 bringing 152:17	153:8 brings 106:22 Brinson 71:25 72:1 Brin-tison 72:2, 3 broad 163:22 broadly 161:23 brought 119:17 Brynteson 71:7, 17, 22 72:4, 9 73:3, 13, 24 74:3, 9, 11, 23 75:13 Brynteson's 74:19 bucket 29:4 buckets 31:4 build 30:4 110:9 124:1 152:15 157:22 building 26:22 40:4 101:10 157:12, 15 business 13:17, 18, 23, 24, 25 14:1 17:1, 15, 19 18:1, 7 19:3, 16, 19, 24 20:8, 14, 20 22:7 23:19 25:2 26:17, 18 29:11, 14 30:23 34:8 35:2, 5 37:10 40:24, 25 44:5 45:25 46:2, 5, 15, 24 90:6 92:13, 16, 25 115:15 131:1 139:22 141:1, 7, 8, 11, 12, 17 142:10, 19 143:2, 4, 7, 16 147:13 150:23 151:12, 15, 24 152:4, 12 153:1, 13, 17, 18 154:4, 8, 10, 13, 16 155:5 156:3 183:15 200:3, 6, 7 201:17 buying 161:16 Byron 2:3 6:15 < C > calculate 113:8 calculation 115:16 calendar 91:5 118:2 call 45:12 47:13, 23, 25 111:6 145:15	157:2 161:13, 14, 17 162:11 180:25 called 1:9 14:25 17:24 34:1 61:10 63:5 65:19 69:16 161:25 167:1, 12 calling 73:5 calls 30:11 Cameron 1:12 6:11 Canada 188:1 candidate 94:25 157:1 158:3 159:14 candidates 159:1 Cannon 1:12, 12 6:11, 12 capabilities 20:9 21:2 53:7, 11 59:7 60:14 75:23 93:11 capable 112:3 capacity 84:20 131:19 capital 88:9, 11 capture 24:9, 10 92:24 153:12 card 35:16 carefully 214:3 Carretta 182:22 183:11, 14, 23 184:7 189:15 191:1, 24 192:5 194:6, 15, 23 195:11 Carretta's 189:22 carry 85:21 102:15, 17 Case 1:3 6:7 30:10 42:3, 17 43:19 53:17 71:2 78:18 84:18 85:24 90:13 96:21 103:4, 21 107:17, 21 119:9 124:24 128:12 130:11 131:1, 21 143:17 146:14 147:13 152:10 156:14, 16, 19 157:2 162:10 167:18 171:9 174:7 188:21 193:15 196:13 202:13 cases 24:11 41:18	42:4 112:4 143:6 casualty 94:8 catch 32:10 catching 165:6 categories 20:20 30:15 categorize 104:14 category 107:8, 19 caused 156:21 158:2 CBs 98:25 cc 115:11 cent 138:11 Center 2:8 7:10 centralized 198:6 centrally 198:7 certain 24:3 32:16 42:7, 14 54:1 67:11 99:2 104:15, 22 109:3, 3 160:22 200:22 certainly 118:25 120:4 184:12 CERTIFICATE 212:4 certifications 16:19, 25 certify 212:6, 13, 16 213:6 cetera 77:2 171:9 Chaban 112:21, 21 165:21 Chaban's 166:23 chain 70:25 74:25 77:23 78:9 79:7 85:1 91:24 109:15 165:19 challenges 151:20 chance 91:18 100:11 105:19 112:12 121:10 139:5, 7 149:22 155:15 175:18 180:16 183:8 187:11 193:19 change 18:16 19:20 108:12 151:25 175:6 215:6, 8, 10, 12, 14, 16, 18, 20
---	---	---	---

<p>changed 17:22 78:21 114:8, 15 202:2, 9, 17 203:4 changes 78:20 202:22 203:12 214:8 215:3 changing 166:15 characterization 79:8 104:13 208:22 chargeable 29:3 chase 122:6 Check 81:23 110:15 116:9 124:22 126:18 128:19, 24 129:4, 6 133:25 207:8 checked 185:4 checking 13:7 31:25 83:10 116:16 Chen 106:2 choose 45:3 48:3 169:23 187:3 choosing 161:15 chose 163:19 chosen 206:4 chronological 181:4 Chubb 10:25 11:3, 19, 22 12:4 22:18 33:2, 10, 21 44:13, 17, 19 45:15, 20 46:11, 21, 23, 23 47:6, 17, 19 49:5, 21 50:2, 6, 15, 22 51:2, 3, 4, 8 52:19, 23 53:3, 12, 25 54:10, 14 55:20 56:8, 9 57:12, 25 59:8, 25 60:3, 19 61:4, 17, 24 62:7, 14 63:2, 11, 17, 23 66:18, 24, 25 67:5, 5, 12 69:25 71:12, 15, 22 72:7, 19 73:25 74:10 75:3, 11, 16 76:8, 13 77:1 78:5, 10 79:5, 17, 25 80:9, 19, 24 82:8, 17, 25 83:7, 11 84:7, 12, 18 85:17 86:1, 9, 22, 24 87:14 88:18 90:10, 20, 24 93:8, 19, 20, 22 94:2,</p>	<p>5 95:21 96:19 101:7, 13, 17, 21 102:5, 18 103:23, 25 106:22, 25 107:8, 9, 11, 18, 21, 25 110:21 112:15, 25 113:12, 17, 23 114:5, 11 116:5, 18 117:6, 8, 10, 14 118:8, 15 119:13 120:10, 16 121:3, 14, 14 122:11, 15, 17 124:18 125:4, 12 127:22 128:19 129:3, 13 130:3, 16, 17 131:9, 19 132:4, 9, 12, 16, 24 133:21 134:7 135:2, 7 136:15, 18, 21 137:7, 19 146:14 147:9 148:3, 6, 24 149:10 150:4, 7 152:10, 12, 17, 18, 18, 22, 22 153:3, 3, 9, 25 154:17 155:1, 11 156:16, 18, 24, 24 157:4, 7, 17, 18 158:2, 11, 11, 16, 18, 24 159:18 160:1, 5, 11 161:1, 7, 20, 21 162:9, 14, 16, 16, 25 163:6, 12, 18 164:2, 8 165:25 167:10, 16, 21 168:4 169:4, 10, 19 170:12, 21 171:4, 19, 21 174:1, 3, 18 175:23 176:19 177:7, 13, 18, 23, 23 178:4, 10, 12 180:21 181:2, 6, 23 182:2, 18 183:12 184:5, 12, 20 185:3, 19 186:18 188:23 189:1, 1 191:7, 8 192:17, 20 193:9, 10, 25 194:7, 14, 16, 24 195:8, 20 196:2, 5, 5, 12, 24 202:1, 8 203:4, 21 204:4, 16, 22 206:10 207:6 208:13, 13 209:22 210:12</p>	<p>Chubb's 47:24 48:14 49:16 50:20 51:17 54:15 55:12, 20, 22 56:10 57:7 67:18 69:8, 11, 22 70:2, 3 79:23 90:16 102:2, 11, 17 107:24 108:22 109:7 117:18 122:11, 25 127:11 129:13 134:10 146:19 152:11 158:1 163:24, 25 164:12, 18 170:14 171:24 174:8, 12 179:2 181:1 188:10 196:24 207:21 209:15, 16, 24 210:13 citing 194:15 claim 108:8 173:17 clarification 67:16 80:1 160:3 clarify 7:16 12:3, 10 25:12 33:14 34:5 73:7 116:21 129:18 158:16 clarifying 131:15 160:1 CLARK 1:9 3:5 6:4, 23 7:6, 7 38:25 70:16 100:6 138:25 209:11 212:6 213:4, 13 classified 19:17 classify 28:14 clear 8:17 26:21 35:9 58:24 81:4 115:15 131:21 160:25 191:24 197:23 198:12 201:23 209:21 clearly 55:3 57:25 68:24 73:14 117:21 125:14 client 9:9 13:5, 6 19:6 22:12, 13, 17 23:2, 3, 24, 24 24:5, 18 25:18, 22 26:5 27:1, 4, 15, 17 29:23, 23 30:17 31:2, 4</p>	<p>36:9 39:5, 17, 20, 23 40:4, 10, 20 41:13, 16 42:1, 9 45:3 47:7, 21 50:8 52:10, 14 53:10 56:14 59:8 63:4, 9 64:14, 18 72:8 82:9 84:12 94:22 97:6 102:16 103:21 112:4 123:12 128:3 129:8 131:17 147:17 148:5 150:15 152:9 156:14, 19 157:10 158:3, 19 159:8 160:13, 15 162:10, 13 166:14 173:1, 2, 13 179:11 185:14 186:6 187:1 193:15 203:1, 8 210:20 clients 24:11 28:13 29:1, 6 84:17 91:3 92:18, 19 103:15 120:18 137:17 151:20 152:3, 3, 4, 6 176:25 198:6, 8 202:20 client's 39:6, 24 40:8 52:6 close 32:15 47:10, 14 71:19 200:11 closed 177:5 closely 23:23 24:5 143:10 closer 11:25 cloud 145:6 155:6 CMS 1:12 6:11 coach 31:10 57:16 coached 95:2, 6 coaching 74:5 79:11 181:21 coffee 158:23 colleague 51:19 61:7 63:16 119:3, 17 125:15 142:23 colleagues 51:18 54:6, 11 55:4, 11 56:19 83:10 95:2, 7 103:7, 20 104:4</p>
---	---	--	--

105:25 106:9 125:4, 8, 11, 16 208:18 collective 37:18 Collingwood 123:4, 15, 16 131:24 137:8 139:14 150:1 204:9, 14 combination 15:25 158:10 combined 37:22 come 26:18 58:17 67:11, 17 150:7 158:8 196:11 201:19 comes 109:4 comfortable 95:9 109:21 coming 110:20 128:11 comment 79:20 95:4 114:7 116:24 commenting 115:18, 20 comments 55:16 Commercial 85:25 130:3 131:11 133:23 134:16 135:17 136:2, 5 146:15 commercials 134:3 commitment 59:4 67:3 communicate 81:9 communicated 102:10 166:9 191:6 communicating 63:23 85:19 87:3 208:18 communication 48:2 51:19 68:18 71:11 75:7 102:9 162:24 186:6 189:20 208:10 communications 10:8, 12, 16, 19, 21 69:20, 21, 24 71:14 83:2 99:21 187:1 210:5, 8, 9 community 154:14	COMPANY 1:7 6:5 7:12, 17 10:10 11:6 14:25 15:12 17:23 18:6 19:2 20:15 23:7 26:10, 13 30:23 36:20 38:4 46:25 59:18 65:16, 18 72:11 125:7 127:25 136:17, 18 156:5 167:5 169:14 200:10, 16 company's 21:16 compare 62:1 comparison 205:25 206:3 207:1 209:3 comped 206:25 compensation 37:16 complex 110:12 complicated 31:1 components 21:16 comprise 181:23 comprised 181:6 computer 10:10 16:10, 20, 21 120:2, 7 computers 120:2 conceded 210:23 concept 36:6, 7 75:19, 20, 25 76:3 78:17 117:17, 20 132:20 concern 169:6, 22 concise 205:1 conclude 133:18 concluded 211:3 conclusion 55:24 84:8 89:8 108:24 116:11 129:23 178:21 184:14 188:14, 16 190:10 192:23 195:10 196:11 210:16 conduct 90:5 conducted 24:2 195:20, 25 196:23 conference 143:23, 24 144:3, 4, 11, 16, 22 145:13, 14 CONFIDENTIAL 1:20	configuration 23:21 98:3 confirm 32:16 125:17 128:18 130:3 134:6 176:16 207:8 confirmation 114:4 125:3, 11 confirmed 103:18, 20, 21 149:5 150:15 173:13 confirming 116:15 117:14 129:3 174:16, 19 conflict 67:12, 13, 15, 18 confusion 197:1 conjunction 19:5 24:17 130:18 connection 19:8 22:17 23:2 32:21 114:18 116:15 117:2, 14, 18 129:19 155:1 161:12 189:1 196:23 209:14 consider 20:1, 3, 4 31:19, 22 32:6 172:2 consideration 97:21 124:25 136:20 159:4, 4 considered 26:22 32:14 49:14 142:24 163:7, 22 164:5 172:4 177:4 considering 110:14 130:17 consisted 174:16 consistent 181:5 constitutes 212:11 consult 25:24 192:12 consultancy 73:21 consultant 14:15 15:16, 24 17:5, 10 20:11 37:15, 21, 23 71:8 112:22 consultants 14:8 Consulting 13:16, 19 14:3 15:3 17:7,	11 18:11 19:1 20:7 21:12 23:2, 13 24:7 29:1 64:16 120:9 139:20 140:20, 24 141:9, 21, 25 143:16 contact 13:5 44:16 51:4, 6, 8 55:3, 4, 6 57:2 58:11 61:16, 23, 23 62:7, 14 63:10, 11 66:12 78:11 85:22 90:20 110:25 148:5 159:3 161:20 162:14 163:6, 7 166:16, 18 170:16 177:9, 17 contacted 10:2 66:3, 6 contacts 61:14 62:18 63:1 157:18 158:6 163:18 170:8 193:14 contain 179:3, 6 contained 11:1 205:19 contemplated 52:12 55:12, 20 56:8 57:12 contemplating 86:15 content 13:8 45:14 contents 134:12 contest 168:6, 20, 23 169:1 context 44:23, 24 49:9 80:1 90:3 188:20 continue 68:7 99:11 151:2 204:15 208:13 continued 66:25 160:6, 11, 14, 17 161:1, 8 178:12 contract 33:22 97:13 98:14, 17 121:1 124:24 134:1, 3 138:10, 13 148:12 186:12 200:3 contracts 104:6 126:19 128:25
---	---	--	--

129:6 137:20 138:2 182:20 184:16 contributed 206:16 207:25 contributes 201:15 contributing 159:2 contributions 37:21 206:7 control 131:11 conversation 111:18, 22 173:11, 22 174:15 176:12 177:5 209:23 conversations 54:3, 5 69:15 71:21 137:3 179:1 186:23 209:15 210:3 converse 42:21 convince 119:8 170:2 copied 115:11 copy 94:17 121:14 123:4 131:24 137:6, 8 139:14 149:25 155:25 corporate 136:15 209:17 210:14 CORPORATION 1:3, 5, 7 6:5 7:19 44:1 117:11 corporations 117:11 Corporation's 5:2 correct 13:20 14:23 17:8, 12, 16, 17 19:9 20:13, 19, 22 26:6, 7 27:4, 22 28:2 29:5, 11, 12, 15 38:2 39:1, 7 40:11, 23 41:22 42:1, 19, 21 46:22 50:3, 6 54:16 55:14, 16, 17 56:21 58:1, 13, 19 62:23 64:18 67:1 69:3 71:1 75:17 76:8 77:17, 24 78:2, 3, 6, 12 79:5, 18 81:17, 20, 24 82:18, 25 83:3, 7 84:12 85:8, 9, 18, 23	86:10, 16 87:7 90:17, 22 91:9, 10, 12, 15 92:2, 3, 5, 10 94:15 95:22 96:8 97:2 102:6, 8, 13, 24 105:9, 10, 13 107:2, 8, 14, 19 108:20 109:1 110:5, 6, 22 111:7, 16, 17 112:17 113:14, 19, 20 114:6, 12, 13, 16, 17 115:4, 10, 19 116:1, 6, 12 118:6, 7, 10 120:25 121:15, 25 122:3 123:1, 4, 5, 7 125:5, 12 128:15, 20 130:4 131:2, 7 132:1, 2, 5, 10, 18 133:7 134:7, 11, 17, 24 135:8 136:2, 4, 8, 12, 15, 18, 22 137:25 148:3, 12, 16, 21 149:4 150:2, 4, 9, 13 153:4 154:1, 2, 7 156:16, 17 158:15, 20 160:8 161:2, 9 162:4 166:1 168:10, 11 169:11 170:18 176:3, 5 178:13 179:2, 10, 18 180:6, 8, 12, 22 182:18 183:12, 22 184:13, 20 185:6, 16 187:21 190:8, 15 191:8 194:1 195:8, 21 197:24 198:3 199:17 203:25 204:5, 20, 22 213:6 corrections 213:7 214:4, 5 correctly 56:6 71:24 134:4 corresponding 85:17 cost 97:10 135:12 costs 136:11 Cotton 7:10 COUNSEL 2:1 6:13, 19 68:6 83:22 186:5 212:14, 18 counsel's 208:22	countries 107:4, 6 130:8, 13 142:5 149:3 country 137:10 COUNTY 213:2 couple 8:1 10:3, 4 11:25 134:8 203:23 206:2 course 53:15 54:22 108:10, 16 124:5 155:6 191:8 courses 151:6 COURT 1:3, 12 2:12 6:6, 21 8:5 212:4, 5 214:13 cover 42:13 108:9 130:3 183:10 covered 42:15, 19 79:24, 25 122:18 124:23 125:13 136:22 covering 84:16 covers 124:19 126:17 128:23 CP 82:8, 9, 10 159:19 166:1, 11 167:17 204:10 crack 134:2 create 171:3, 23 creation 35:10 201:15 credit 35:16 credited 36:17 CROSS-EXAMINAT ION 3:5 7:1 crystallized 101:24 curious 174:3 current 14:13 53:6, 11 60:14 86:4 90:5 93:10 96:8 126:17 128:23 139:21 167:14 171:17 181:2 currently 86:24 95:13, 17 110:13 140:12, 13, 25 170:14 182:2 customer 10:21 13:10 20:25 21:4 22:1 23:20 24:9, 12 25:25 26:19, 22	30:11 31:2 32:12, 15 33:20 34:9, 15 44:19, 21 45:1, 4, 24 46:13 48:23 51:4, 20 53:5 56:23 57:2 58:8 59:9, 12, 15 61:19 62:2, 20 63:21 67:25 68:19 76:4 101:11, 25 119:8 143:24 144:3, 4, 22 145:13 146:22 149:1, 2 151:8 157:22 159:11, 15 161:14, 17, 18 171:8 customers 20:8, 12 30:5, 9, 12 31:24 45:3, 18 53:7 101:5 106:1, 6, 6 107:3 119:10 137:17 144:5 161:16, 20 162:1 163:12, 13 169:23 171:5 198:20 customer's 34:14 51:22 58:8 75:22 Cycle 143:7 < D > daily 83:11 Darcy 155:19 156:12, 25 158:21 159:16, 18, 21 160:1 Darcy's 159:10 162:3 data 198:21, 25 199:3, 11 200:19, 22 date 6:7 14:6 65:2, 4, 6, 8 92:4 118:6 214:7 215:24 dated 77:15 78:2, 4 85:7 92:1 100:19 133:10 165:20 180:21 183:12 189:16 dates 12:14, 14 92:6 David 119:1 121:14, 22 day 77:16 78:4, 7 105:3 122:2 126:13 130:25
--	---	---	---

147:13 212:21 213:17 days 214:11 deal 132:4 205:24 206:14 207:11, 17 dealing 24:4 26:1, 5 61:4 dealings 60:18 69:18 83:11 161:23 177:7 193:9 deals 22:10 dealt 69:2, 6 December 144:20 145:18 decide 53:21 Decision 14:1 17:14, 18, 24 18:5, 6, 12 19:9, 12, 17, 23 20:3, 5 34:1 61:9 62:22, 25 92:8, 14, 23 93:12 95:16, 24 96:7, 15, 20 97:1, 9 104:22 115:17 122:7, 18, 22 124:19, 23 125:14 126:18 127:19 128:24 130:16 132:8, 13, 15 133:25 134:13 135:13 136:12 137:22 138:9 139:22 141:10, 12, 21, 25 142:9, 19 146:12, 20 147:10 148:3, 11, 16 150:19 151:10, 13, 16, 17, 21 152:14, 21 153:8, 20, 20 154:3, 13, 24, 25 155:11 156:3 162:15, 25 decisions 19:19 92:20, 25 93:2 151:23 152:14 153:14, 23 154:1, 5 deck 92:8, 10 decline 205:3 decommissioned 89:2 deemed 214:13 default 127:6 138:7 Defendant 1:8 6:16	Defendants 2:7 Defendant's 5:2 define 67:13 defined 23:6 34:9 97:21 187:25 definition 46:7 98:8, 11 184:25 degree 16:9, 17, 25 degrees 16:13 Delaware 1:3 deliver 25:1 115:25 155:7 delivered 144:10 delivering 32:17 delivery 16:1 demonstration 75:22 Denice 119:1 department 17:23 depend 97:11 121:1 210:7 dependent 154:15 210:13 depending 73:20 deploy 90:4 198:8 deployed 101:19 154:12 194:20 deployments 107:4 Depo 6:10 deposed 7:23 deposing 214:11 DEPOSITION 1:9 6:4, 10 9:6, 21 10:24 12:5 70:18 71:5 89:10 99:16 100:8 149:14 166:22 203:13 211:3 212:8, 9, 14 213:5 214:3, 9, 12, 12 deputy 6:19 Dermot 94:17 describe 18:25 19:15 22:25 23:4, 8 24:8 44:25 46:2, 4 59:3 90:2 described 47:24 48:14, 17 129:7 179:17, 18 180:6, 8, 12 197:2 describes 111:15	148:17 173:25 describing 173:24 Description 4:1 14:20 126:21 172:22 design 23:12, 17, 20 24:6, 15, 18, 21, 23 designed 19:18 59:5 92:18 130:15 152:3 198:19 detached 163:9 detail 48:17 94:4 106:3 203:23 204:21, 23 205:2 details 50:13, 14 93:24 119:15 146:19 147:21 208:3, 8 209:17, 24 determination 25:16 76:13, 20, 21 77:6 136:21 determine 41:3 76:25 97:25 determining 34:2 Dettloff 156:1 159:16 develop 19:3 20:14 26:17 37:10 40:24, 25 41:17, 21 128:7 146:23 156:22 developed 127:21 128:4 150:24 151:6 155:3 developing 29:5 development 20:20 29:11, 14 41:21 71:8 190:24 developments 32:1 diagram 92:15 115:15 difference 198:18 different 33:6 67:15 76:22 92:6 141:19 149:3 166:20, 21 181:20 182:20 190:17 195:16 196:19 difficult 163:15 diligence 51:22 184:19	direct 61:23 62:14 63:10 85:18 111:21 141:13 143:12, 13 direction 103:15 212:11 directly 90:20 212:18 director 13:16, 19 14:2, 16 17:6 21:12, 19 41:21 94:18 140:23 141:24 directors 140:20 141:3, 9, 18, 20 directs 131:24 167:7 disappointed 170:22, 24 disappointing 80:24 disclosed 187:25 discount 99:1, 3 discretion 99:1 discuss 51:17 79:23 93:18, 21 120:10 170:16 174:17 175:4 176:10 discussed 39:13 90:18 93:11 118:23 119:6, 7, 16 150:9 176:11, 13 179:7 180:25 208:11 discussing 80:5 93:7 117:18 165:3 discussion 49:15, 18 91:9 96:22 105:23 110:25 119:12, 13 127:6 136:14, 17, 19 157:23 203:24 206:5 209:19 discussions 68:19 69:10, 11, 24 97:19 164:15 170:9, 14 dispute 68:21 170:20 171:13 172:7 173:7 dissatisfaction 80:17 distinction 198:22 distinguishing 37:9 distribution 76:17
--	--	--	---

<p>DISTRICT 1:3, 3 6:6, 6 divestiture 172:8 divestitures 172:3 division 13:16, 19 14:3 29:2 38:6 140:23 141:10, 21, 25 divisions 106:9 DMS 140:25 141:7 142:24 143:2, 16 167:2, 19 document 33:9, 17, 18, 23 70:20 77:15, 18, 20, 24 78:13, 16 79:2 81:18, 25 82:15 85:5, 14 87:24 91:19, 23 98:20 99:15 100:12, 15 105:20, 21 106:12 109:16, 17, 22 110:1 111:15, 24 112:9, 14, 16 115:18 121:11 125:21 133:5 139:6 147:24 148:14 155:16 165:17 182:9 183:4, 9 187:7 188:20 189:17 193:20, 23 196:12 203:16 208:23 documentation 33:3 34:10, 14 104:18 154:18 182:12 documents 9:16, 20, 23 10:7 33:1 71:4 129:21 149:13 178:25 179:6 181:4, 6, 23, 24 185:23 189:9 203:6 209:13 doing 8:15 10:9 30:11 32:9 54:23 87:22 112:3, 5 113:25 131:10, 13, 18 204:19 214:7 doubt 52:15 57:5, 23 87:22 115:24 DRA 92:20 152:2 draft 204:3</p>	<p>draw 188:16, 19 208:24 driving 206:25 Drop 65:19 dry 204:11 208:21, 25 DS 96:14 97:10 DTS 1:3 due 51:21 89:17 172:7, 13 184:19 194:9 duly 6:24 212:6 Duncan 61:7 Durham 16:6, 8 duties 18:18, 20 19:8 < E > earlier 13:12 40:19 53:4 59:14 60:13 74:25 93:10 101:4 116:24 123:6 129:7 145:6 147:12 157:8 182:21 192:8, 22 193:4 earliest 165:19 203:19 early 51:4 162:23 163:1 165:12 East 38:3 133:2 140:1 easy 19:19 106:20 EC4N 1:13 6:12 echoed 51:20 ecosystem 204:4 editions 109:4, 6 education 14:21 effect 18:14, 15, 17 136:7 141:17 154:24 198:14 effectively 93:2 123:13 141:23 153:12 165:5 167:17 205:1 effort 153:9, 25 Eighth 2:9 either 20:16 26:21 43:6 52:10 133:17 142:13 197:20 212:17</p>	<p>ELA 73:21 74:17, 21, 24 81:20 82:11, 25 87:20 89:17 90:14 95:17 97:8, 10 102:5 106:19, 21 107:2 108:7 124:18 132:5 135:7 136:8, 22 137:10, 23 148:12 179:24 element 26:19 32:2 37:16 elements 16:1 Elie 180:20 elongated 183:16 Email 2:10 10:8, 12, 16, 19, 21 11:19, 22 12:2, 4, 4, 6, 8, 12 45:9 51:5, 12 69:20, 24 70:25 71:13, 18, 24 72:4, 8, 19, 22, 25 73:2, 4, 9 74:25 75:2, 10, 18 77:16, 23 78:1, 4, 8 79:7 81:16, 22 82:2, 21 83:4, 15 84:2, 5 85:7, 10, 16, 23 86:8, 22, 23 87:6 88:18, 18 89:1, 5, 6, 7 90:15, 19, 21, 25 91:24, 25 92:7, 14 94:14, 24 97:7 100:18, 20 101:2 102:5 104:9, 11 105:23 106:11, 12, 12, 14 110:4, 6, 8 111:12, 16, 25 112:16, 19, 20 114:11, 19 115:1, 8 121:13 123:3, 18 126:10 129:19 133:10, 11, 12, 14 134:4 136:14 139:12, 13 144:19 149:18, 25 155:18 160:25 161:7, 12 165:19, 20 171:19 173:25 174:17 177:3 180:20, 21 183:11 189:15, 22</p>	<p>194:8 203:19, 19 204:1 208:7, 9, 25 emailed 65:24 66:7, 9, 14, 18 69:4 112:21 emails 10:23, 25 11:3, 7, 13, 15, 19, 21 12:1, 17, 21, 22 13:2, 7 51:14 60:21 68:7 77:14 85:2 88:21 89:9 109:15, 16, 18 117:3 118:8, 14 126:3 139:11 160:11 204:9 embarked 110:9 embarking 57:4 86:2, 13, 19 87:4 EMEA 133:2 139:20, 22, 24 140:15, 21 141:1, 13, 23, 23 142:2, 3, 20 155:22 159:19 162:20 204:16 206:6, 8, 13, 21 208:2, 13, 13 E-M-E-A 140:2 Emma 1:12 2:12 6:21 212:5, 24 emphasize 204:3 employ 29:6 employed 7:12, 12 15:7, 11 64:5 employee 122:15, 16 169:2 212:16, 17 employees 58:13 69:12 83:4 142:9 180:6 188:25 employer 7:14 employment 14:21 enablement 45:12 106:5 encountered 50:2 encourage 170:25 171:3 encouraging 116:5, 7 endeavour 23:6 ended 204:19 ends 81:22 engage 50:15 204:15 208:13</p>
---	--	---	--

<p>engaged 153:25 engagement 159:15 engaging 41:16 90:24 engine 98:4 113:1, 4, 6, 18, 24 116:1, 6 121:19 146:15 152:13, 19 160:7 England 212:5 enquire 25:8 174:6 enquired 75:16 enquiries 69:19 104:17 160:20 enquiring 122:11 135:25 enquiry 40:6 47:19, 22 50:6, 7, 14, 19 53:4 60:4 76:7 83:5 106:2 116:8 162:3 ensuring 103:5 entail 52:23 entered 127:22 enterprise 45:4, 21 46:4, 9, 9 48:19, 20, 22 74:24 79:24 96:8 123:19 124:14 127:22 179:9 182:3, 13 entire 62:16 entirely 57:8 entities 98:10 102:1, 2 117:5, 7 136:15 188:1 209:17, 25 210:14, 20 entitled 56:24 207:11 entitlement 57:10, 10 134:9 entity 97:23, 24 98:10 101:25 116:17, 19, 21 117:2 132:17 199:23 201:10 entity's 102:23 entry 91:5 118:2 equivalent 168:13 197:10 Er 8:25</p>	<p>Erm 128:21 129:16 134:12, 18 142:21 148:7 151:5 Ernst 156:10 errata 214:5, 7, 9, 10 error 148:19 escalated 206:19 especially 174:5 198:6 206:25 ESQ 2:6, 11 essential 205:17 essentials 205:5 208:10 209:2 et 77:2 171:9 Europe 35:25 36:1, 8, 9, 17, 18, 23, 25 37:5, 7, 9, 23 38:2, 3 49:21 50:6 54:1, 11 55:20, 21 56:8, 9, 13 57:3 58:1 61:4, 17, 17, 23, 24 62:7, 8, 13, 14 63:2, 2, 10, 11, 24 66:25 67:6 69:8, 12, 22, 25 70:2, 4 72:19, 23 76:13 77:1 78:6 79:4, 5, 17 80:7, 17, 24, 25 82:17 83:6, 7, 13 84:5, 12 86:9, 22, 24 87:14 90:21, 24 93:9, 20, 22 94:2, 5 95:1, 21, 21 96:25 97:2 101:13 103:24 110:21 112:15 113:23 114:5, 12 116:5, 18 117:6 119:13 120:10, 15, 16 129:3, 13 130:13, 17 132:9, 12, 15, 16, 16, 25 133:2 135:17 136:2, 18, 21 140:1 146:6 148:3, 6, 24 152:18, 22 153:3, 9, 25 155:11 160:5, 11 161:1, 21 162:16, 16 163:6 169:4, 10, 19 174:9 184:5, 12, 20 185:3, 4 188:11 189:1 191:6 192:21 193:9</p>	<p>194:15, 25 195:8, 8, 19, 21 196:5, 13, 23, 24, 25 202:7 204:4, 22 207:20 European 97:8, 10 European-wide 133:24 134:17 Europe's 54:14 79:24, 25 80:9, 19 84:7 93:19 101:17, 21 108:9 117:14 118:15 152:18, 22 153:3 161:8 178:12 185:19 189:1 191:7, 8 193:10 196:2, 5, 6 202:1, 9 210:12 evaluation 169:17 170:5 204:17, 23 206:15 207:25 event 9:24, 25 45:13 61:5 62:19, 19, 22 63:19, 22 66:24 146:3 157:2 events 30:11 61:13 eventualities 143:22 evidence 25:11 30:19 34:20 48:16 53:14 119:9 Ewen 52:20 53:6, 15 54:18, 21 55:6, 7, 8, 16 56:12 57:8 58:20 59:5 60:10, 21, 25 61:5, 7 85:7 87:3 94:7 95:4, 13 100:19, 23 101:15 102:10 110:6, 23 111:5, 13, 19 112:2 115:10 116:8 118:15, 23, 25 120:10 157:20 160:21 163:7, 9, 20 164:14 Ewen's 101:23 exact 14:6 45:7 61:13 155:21 176:14, 23 182:23 exactly 10:2 31:9 47:5 87:18 101:19 166:9, 24 174:19 178:22 184:24</p>	<p>185:23 186:13 198:12 examination 1:9 example 26:24 31:25 34:10 35:15 40:3 48:23 75:22 107:9, 11 123:10 124:12, 14 143:6 157:17, 20 158:7 197:10, 12 198:16 200:25 202:24 examples 76:4 106:20 exasperated 183:17 Excel 110:13 exception 18:22 136:11 exchange 102:5 104:8 162:1 exchanged 118:15 exclude 86:20 Excluding 63:22 exclusively 130:12 154:14 Excuse 189:10 execution 19:18 executive 64:2, 3, 9 123:7, 12 130:2 167:12, 13 Executives 63:5, 12 99:1 exercise 33:21 125:7 169:22 Exhibit 4:1 70:18, 21 77:11, 13, 17 78:8 82:4 84:2, 24, 25 85:6, 16, 20 91:4, 6, 17, 20, 25 94:13 99:15 100:8, 10 102:12 104:4, 8 105:17, 18 109:13, 14 112:10, 11, 15 115:9 117:25 118:1, 8, 12, 12 121:7, 8, 13 125:19, 20 126:1, 2, 4, 8 133:4 137:2, 5, 9 139:3, 4, 12 146:11 147:22, 23 148:2 149:14, 20, 21 155:13, 14, 18 162:6,</p>
---	---	---	---

7 165:14, 15 171:11 175:14, 15 177:8 179:20 180:9, 14, 15 183:4, 5 187:5, 6 188:9 189:13, 14 191:23 193:17, 18 203:13, 15 EXHIBITS 4:1 204:2 exist 110:13 existing 86:20 134:3 137:17 148:11 161:18 expand 18:17 26:3 50:21 143:3 147:7, 10, 18 expanded 43:23 expanding 86:9, 25 expect 76:12, 24 expectations 87:19, 25 89:19 expected 114:21, 24 164:10 183:17 Experian 15:19, 23 16:3 experience 21:11, 18 44:4 47:17 129:21 expert 119:5, 18 expertize 188:19 Explain 92:12 151:18 195:24 explained 36:3 176:24 explaining 86:8 explains 88:2, 2 explanation 115:14 exposure 47:6 express 80:16 154:22 expressions 81:4 extend 160:6, 12, 14 161:1 extending 160:17, 20 extension 161:8 extensive 106:21 107:13 extensively 108:1, 17 extent 9:8 27:5 34:12 42:11 55:23, 24 74:18 93:25 98:2 172:15, 20	178:20 186:5 190:10 191:9 192:22 196:9 EYES 1:21 < F > face 88:13 151:20 195:15 209:1 face-to-face 91:3 fact 39:4 46:24 49:4, 11, 21 57:3, 7, 20, 22 67:5 80:7, 17, 22 89:8 90:24 103:6, 23 105:12 106:25 107:3 108:12 114:6 116:16 117:15 118:18 119:23 124:4 125:17 129:6 158:5 159:2, 21 170:8 188:21 199:25 factors 97:11 158:10 159:2 facts 25:10 30:19 34:19 48:16 53:14 69:23 173:19 175:9, 11 176:15 178:15 184:7 factual 195:12 factually 190:11 196:9 fail 214:12 FAIR 1:3 5:1 6:4 7:19 8:18 11:17 18:4, 10 20:18 29:22, 25 30:17 31:7, 12 36:23 40:1 42:10, 25 43:17, 21 49:12 71:14 73:3 80:15 84:8 86:25 96:4 104:1, 13 109:9 117:8, 9 121:5 122:12 148:24 160:12 169:5 170:4 189:2 192:21 193:12 fairly 61:14 95:12 135:4	faith 56:15 fall 84:19 164:14 fallen 84:19 familiar 19:16 34:17 35:7, 19 36:6, 7, 12 102:1 113:5 194:17 familiarity 201:9 familiarize 12:13 13:9 70:19 familiarized 9:24 fancy 87:12 far 8:15 11:10 21:11 193:10 February 106:13 145:10, 10 165:20 167:25 170:6 175:20 177:15, 16 203:20 fed 169:7 FED001491 4:1 FED009351 4:1 FEDERAL 1:7 6:5 187:24 feeds 22:3 feel 93:13 109:17 157:23 fees 31:5, 5 fell 107:18 felt 157:18 FICO 2:13 6:18, 20 7:14, 15, 17, 20 13:15, 18 14:11, 21, 24, 25 17:4, 6, 16, 19 18:20 19:21 20:9, 16 21:6, 13, 21 25:4 27:11 28:7, 25 29:20, 23 31:3, 6, 18 32:21 34:3, 18 35:7, 19, 24 36:8, 16, 23 37:5, 7, 9 39:25 40:9, 20 42:4, 17, 22 43:1, 3, 21 44:1, 18 45:21 46:25 47:7, 11, 24 49:12 50:3 51:18 52:6, 7 54:6, 11 55:11 57:25 58:4, 7, 10, 12, 12 61:9, 16, 22 62:7, 13, 16, 20 63:1, 10 64:5, 11, 20 65:3, 15, 16	67:12 69:12, 17 71:12 73:15 74:22 75:12, 16 76:8, 12, 23, 24 78:5 79:4, 5 80:7, 17, 25 82:16, 20 83:3, 4, 6, 13 84:5 85:17 86:8, 23 90:11 94:19 95:21 97:24 102:16 103:7, 16, 20, 20, 22, 24, 24 117:13, 17 122:16 123:7 125:3, 11 127:21 128:4, 7, 11 129:14, 24 130:2 132:15, 16, 25 133:1, 8 134:10, 23 137:4 142:3, 20 143:4, 25 145:12, 16, 17, 22 148:2, 6, 8, 24 155:1 161:19, 23 165:10 166:23 168:6, 17 169:2, 4, 20 170:2, 11, 21 171:5 172:7, 12 175:6 178:13 180:6 182:17, 25 183:21 185:4, 14, 16, 18 186:2, 14, 16, 24 187:21, 23, 25 188:10, 21, 25 190:24 191:5, 6 192:6, 12 193:25 194:9 195:7, 19 196:4, 23 197:13 199:6, 10 201:9 202:7, 15, 21 203:3, 11 204:4 206:9 207:3, 20 208:18 209:21, 23 210:3 FICO0000767 4:1 FICO0000929 4:1 FICO0001408 4:1 FICO0001758 4:1 FICO0001769 4:1 FICO0001965 4:1 FICO0001971 4:1 FICO0001975 4:1 FICO0001982 4:1 FICO0001996 4:1 FICO0002001 4:1
---	--	---	--

FICO0002015 4:1	14, 15, 16 109:16	forwarded 70:25	155:9 173:16
FICO0002023 4:1	118:20, 20, 23 137:5,	71:18 72:5 75:1	177:10, 14, 20
FICO0002027 4:1	9, 13 139:13 165:19	130:2	191:16 194:9 210:6
FICO0002454 4:1	166:9 170:20, 23	forwards 87:6	furthermore 172:21
FICO0003090 4:1	171:11 185:16	foundation 11:8	future 40:5 44:7
FICO0003127 5:4	189:22 212:6	21:7, 14 34:20	68:18 131:1
FICO0003132 5:5	firstly 124:22	36:2, 11, 19 37:1	147:14 153:1
FICO0003278 4:1	fiscal 144:14	42:12 43:25 44:8	154:11 171:17
FICO0004775 5:6	fit 23:10 25:1	58:2 61:25 62:9	FYI 71:20
FICO001498 4:1	111:1 112:2, 6, 7	72:21 73:6 74:18	
FICO004809 4:1	116:9 119:11 141:1	76:15 77:3 79:6, 9	< G >
FICO2019 75:5	fits 24:15 172:21	80:10 81:1 83:9	gaining 45:5
FICO2024 94:14	five 141:4 189:10	84:9 86:11, 17	Gary 75:3, 10, 11, 16
FICO's 20:12	fixed 59:4 67:3	87:2, 15 88:15	gathering 23:16
32:20, 25 39:17	Fleet 2:12 6:9	98:1, 22 104:2	152:9, 12
48:14 56:20 59:8	flexible 99:8	127:23 128:8	GC 6:19
92:22 102:23	Floor 7:10	131:20 142:11	general 15:2 22:6
103:2 106:6 134:7	focus 17:11 18:5,	171:25 172:14	24:22 31:4 46:3
173:17, 23 187:9	11, 13, 15, 16, 20	175:10 178:6, 14	75:20 84:21 90:2
196:20	19:10 20:7 29:11,	181:7 182:10	105:22 140:14
field 20:5 40:6	14 30:6 142:23	184:15 188:13	206:21
Fifth 7:10	176:12	190:10, 25 192:8, 23	generalists 20:3, 5
figure 142:13	focused 117:1	194:2 195:10	generally 23:4, 9, 23
FIKO 140:21	focuses 45:20	197:16 199:12, 19	34:7 36:16 71:15
file 10:21, 25 11:2,	folder 11:1, 3, 19, 22	200:1, 13 201:13	76:2 94:2 120:7
16	12:1, 4 88:18 89:5,	202:3 205:7	129:18 145:20, 23
files 11:6	6, 7	207:14, 22 208:5, 14	173:3
filing 11:13, 14	follow 23:6 109:19	210:15	generate 29:20
final 93:13	111:18 124:3	four 141:4 156:10	30:16, 23 31:3, 6
Finally 32:14 165:9	133:19 138:8	Fredrikson 2:3	36:25 37:6, 17
207:20	following 115:8	6:15	43:23 71:9 73:25
financial 144:13	215:3, 3	free 78:25 79:18	74:9 80:8, 18, 25
find 33:23 51:2	follow-on 111:21	109:17 155:3, 5, 5	generated 38:10
111:13 168:8, 18	118:17	202:20	41:25
finding 122:14	follows 6:25 133:13	freely-available	generates 36:8
183:17	follow-up 118:14	155:4	generating 30:14
fine 60:25 70:7	force 71:10 74:13,	frequently 81:11	generation 36:17
99:10, 22 138:17	15, 16	143:21 172:3	75:14 88:5
finish 8:16	foregoing 212:7	front 112:9 203:6	generic 94:12, 12
finished 13:13 85:3	213:5	front-end 110:10	gentleman 69:16
firm 195:1	form 24:25 48:1	fulfilled 38:12	geographic 42:22
firms 156:8, 9, 10	67:19 159:14	fulfilling 116:7	49:17
First 5:2, 2 14:20	formal 24:1	fulfills 29:3	geographical 35:24
23:3 44:13, 16, 18,	formation 209:17	full 24:11, 13 41:9	geographically 42:7
20 45:7 46:21	formats 92:6	197:24	158:9
47:6 71:11 77:15,	forum 45:6, 7 47:14	fully 139:8	geography 35:21
23 78:8 82:4	forums 171:8	function 29:3	107:7
83:23 85:6, 16	forward 24:7 94:14	functional 116:14	gestures 9:2
86:2, 13, 19 90:8	123:3 131:4 175:8	functionality 115:25	getting 18:19
91:24 97:14		further 53:22	146:11 158:22
102:11 106:11, 12,		97:19 150:18	

205:23 Gibbs 121:14, 22 give 10:3 11:24 34:11 59:10 62:10 65:3 97:5 111:6 112:1 119:9 157:24 161:20 174:10, 12 186:20 198:16 given 27:17 29:22 30:17 36:20 57:21 59:16 103:16 109:10 124:14 147:11 186:8, 9 197:1 212:12 giving 54:18 74:11 114:7, 14 197:23 global 42:22 43:14 51:5 52:17 55:3 56:23 57:10 69:17 82:11, 20, 25 87:19 89:17, 18 90:14 96:14, 20 102:5 108:6 109:10 120:13, 22 123:19 125:8 127:14, 22 131:1 132:4 135:7 136:8, 22 143:24 144:2, 22 145:13 147:14, 16 155:23 156:3 159:8, 11 163:21 164:1, 3, 5, 7, 11 165:25 166:5 167:2 168:4 169:21 179:9, 9, 14, 17, 18, 24 180:6, 8, 12 185:14 193:8, 11 197:2, 10, 14 199:15, 23 201:10 206:24 207:2, 3, 4, 11 globally 197:11 go 8:1 9:12 10:9 12:20 16:5 23:1 27:8 28:20 30:21 31:16 40:14 41:7 51:15 52:2 56:2 60:12 66:2 72:12, 13 74:7 79:12 99:14, 23 151:1 168:5, 20 174:22 180:5 185:10	192:8 193:13 195:22 196:9 201:21 204:24 209:4 goal 20:11 147:9, 15 164:7 goes 43:9 73:13 78:19 161:6 210:16 going 8:1, 8 22:25 38:19 46:13 47:23 48:13 54:25 70:8, 10 85:1 99:25 100:24 104:10, 24 109:15, 18 125:25 128:19 129:4 132:20 137:2 138:15, 19 157:8 160:21 163:23 164:2 175:8 176:16, 17 186:20 187:9 191:17 209:5 211:1 Good 7:3, 4 8:15 22:1 23:10 30:23 49:12, 14 56:15 70:5 78:22 99:20 111:1, 5 112:2, 6, 7 116:9 119:11 121:25 123:18 125:7 126:15 148:23 156:25 157:5, 9, 13 goodness 108:7 Gould 2:8 6:17 governs 27:1 grant 35:25 201:10 granted 97:23 188:5 granular 106:3 Great 112:9 115:23 116:11 greenfield 31:17 ground 8:1 40:15 group 97:18, 22 98:4, 6, 6, 12 117:11 158:7 guess 22:4 33:9 81:16 92:10 159:5 168:18 172:23 guidance 73:14 103:25 138:12	147:11 170:17 173:14, 15 174:11 195:16 205:5, 16 210:1 Gundy 137:14 138:2, 3 guys 87:12 131:10, 13, 18 < H > Hadaway 140:14, 17 206:21 Hamish 61:7 121:13, 17, 24 122:13 124:4 126:13 147:11 149:5 162:21 163:5, 8, 11, 19 164:17, 21 165:1, 9 166:5, 8 168:15 174:21 176:7, 19 177:9, 17 203:24 204:8 208:4, 19 Hamish's 124:25 163:21 164:3 hand 212:20 handed 70:18 handing 100:8 105:17 handle 53:3 handled 21:22 172:9 happen 77:6 161:12 162:4, 12 171:2 172:3 195:2 happened 60:18, 23 61:14 77:6 80:20 127:24 143:23 165:8 177:7 happening 67:23 162:12 165:7 happens 72:15 143:23 144:7 152:8 happy 31:24 40:5 101:5 134:2 157:18 hard 163:15 hard-coded 151:21 Hay's 7:10 hazy 61:13 head 9:3 139:20,	22 182:23, 24 heads 141:12 health 166:17 hear 60:24 111:5 114:18, 21, 25 177:13, 25 heard 8:22, 24 57:20, 22 170:8, 23 held 118:19 145:1 146:3 200:20, 20 Hello 100:23 171:12 help 19:2 29:7 59:6 61:1 92:23 106:9 111:6 122:16 134:2 152:3, 3, 4 153:12 163:17 171:1 hereunto 212:20 Hi 87:12 111:5, 13 112:25 113:23 121:25 159:18 167:21 175:22 205:22 high 60:14 74:11 110:11 148:19 highly 108:17 Hill 22:21 50:11 63:8, 9 64:18 65:24 66:7 78:1, 9, 9, 19 79:3, 21, 23 80:7, 16 81:15 83:15 84:6, 14 85:7 87:6 90:10, 15, 25 94:15, 24 97:7 102:8, 12 104:4 179:9 180:8 Hill's 81:16 83:5 84:5 85:10, 22 89:12 90:21 HINDERAKER 2:11 6:17, 17 9:8, 15, 17 11:8 12:9, 18 21:7, 14 25:10 26:2 27:5 28:18 30:18 31:8, 11 33:6, 11 34:4, 19 36:2, 11, 19 37:1, 8 38:15, 18 39:8 40:2, 12, 14 41:1, 6, 8, 15 42:2, 11 43:9,
---	---	---	--

25 44:8 48:16 51:14, 24 52:24 53:14 54:7 55:23 56:11 57:14, 17 58:2, 14, 24 60:7, 12 61:25 62:9 65:25 66:8 67:7 68:6 69:23 70:5, 8 72:20 73:5, 9 74:1, 18 75:4, 6 76:15 77:3 78:13 79:6, 19 80:1, 10 81:1, 7 82:19 83:8, 22, 24 84:9 86:11, 17 87:1, 15 88:15 98:1, 22 99:6, 9, 12, 24 103:10 104:2 106:15 108:3, 6, 10, 12 109:21 115:5 116:19 117:20 122:21 127:23 128:8 129:15 131:20 135:3, 18, 21 136:23 138:15, 18 142:11, 16 144:18 149:15 151:2, 4 153:10 169:12 171:6, 25 172:14 173:19 175:9, 16 178:6, 14, 20 181:7, 11, 14, 17, 19 182:9 183:6 184:6, 14, 22 185:7, 10, 21 186:5, 20 187:14 188:13 189:19 190:9, 16, 25 191:9, 16 192:8, 22 193:13 194:2 195:9, 22 196:7 197:4, 16, 22 199:12, 18 200:1, 13 201:13, 21 202:3, 11 205:7 207:14, 22 208:5, 14, 22 210:1, 15, 23 Hint 130:25 hired 162:19 historic 47:5 173:4, 4 Historically 7:19 history 196:4 Hmm 123:22 161:3	hoc 59:5, 24 60:21 67:2, 5 69:19 hold 14:13 holistically 30:22 124:16 honest 71:13 hoped 164:13 hopeful 183:19 hopefully 147:10 Hopp 183:11 189:15 194:6 host 198:7 hosted 197:11, 15 198:3, 15 hour 12:23 70:9 81:15, 16 82:1 119:20 138:15 hour-and-a-half 77:4 hours 210:23 hundred 11:25 hypothetical 26:2 200:14 <I> IBM 15:7, 8, 11, 12, 18 168:6, 12, 14, 16, 24 169:10 204:17 IBM's 176:1 idea 10:3 71:17 74:11 97:5 152:10 156:25 171:14 204:12 205:18 identification 70:21 77:13 84:25 91:6, 20 100:10 105:18 109:14 112:11 118:1 121:8 125:20 126:2 139:4 147:23 149:21 155:14 165:15 175:15 180:15 183:5 187:6 189:14 193:18 203:15 identifies 85:25 identify 6:13 identifying 73:24 74:9 IDS 2:8 image 88:13	immediately 50:18 114:23 imminent 209:3 impact 38:11 172:2 imperative 214:10 implement 29:7 153:16 implementation 86:5 93:1, 4, 5, 6, 8 implication 54:23 56:24, 25, 25 96:23 implied 56:12 57:2 implies 59:4 67:15 75:18 important 8:16 9:1 26:5, 25 27:13, 16 39:5, 15, 23 41:5, 11 103:14 importantly 78:22 improper 192:22 improve 201:3, 3 inasmuch 34:13 inbound 47:19 50:5 include 30:4 159:16 200:3 203:23 included 73:20 135:12 148:11 184:25 204:25 includes 26:19 175:25 including 142:21 inconsistent 178:12, 23 182:16 188:24 192:19 195:7, 19 196:4, 22 197:3 incorporate 110:12 141:15 increased 141:15 incremental 181:3, 12 indefinite 200:14 independent 186:10, 22 Indiana 1:7 indicate 175:6 indicating 90:14 indication 34:11 104:25 136:20 indirectly 212:19	individual 37:10 125:6 197:18 individually 142:5 individuals 58:7 72:6 153:5 195:17 209:23 industry 113:5 154:23 inform 134:7 164:18 202:22 203:1 information 22:3 52:13, 15, 16 54:12, 18, 20, 25 55:10 65:6 85:22 90:9 102:20 103:6, 12, 13 107:20 109:10 114:8 121:23 122:14 131:4, 6 169:7, 14 174:12 179:3, 7 185:13 186:8 191:2 202:8 204:25 205:4, 17, 19 208:20 210:1, 4, 9 informed 41:2 102:4, 8, 16 168:15 initial 152:8 Initially 52:22 initiative 92:17 150:18 input 104:21 inside 6:19 163:23, 24 insight 210:19 inspection 212:13 install 120:20, 23 199:24 200:10 installation 121:4 192:18 193:1 installations 190:2, 14, 22 191:25 192:3, 7, 13 installed 120:11, 15, 18 193:5, 6 201:4 installing 201:11 instance 25:24 94:8 108:21 172:11 197:13 instances 157:11 198:9
---	--	---	---

<p>instruct 186:11 187:1 210:6 instructed 208:20 instruction 186:21 INSTRUCTIONS 214:1 INSURANCE 1:7 6:5 53:20 64:3, 16 69:17 89:18 110:12 113:9 118:4, 9, 16 119:4, 14, 18 121:19 123:10, 13 125:8 130:4 137:19 138:2 146:16 158:24 162:19 163:13 164:20 insurer 158:25, 25 intended 21:23 22:2, 4, 5, 6 175:6 intent 152:16, 21 153:6, 16 159:5 169:19 170:1 intention 12:13 13:3, 9 31:12 45:16 53:4 112:1 151:5 164:19 166:16 169:13 170:3 204:13 intentions 73:6 74:2 79:8 182:11 interacted 13:6 63:20 154:8 interacting 13:5, 13 131:19 160:15 interactions 12:15, 25 13:10 47:15 58:11 59:5, 24 61:18 63:3 67:24 164:21 177:20 interest 210:19 interested 78:10 106:8 138:13 212:18 interesting 165:24 166:3, 7 167:21 interests 44:10 101:4 103:3 intermittent 61:14 internal 45:12, 12 47:13 51:21 52:14</p>	<p>57:21 83:2 106:4 157:9, 10 158:4, 19 159:6, 8 162:10 169:16 internally 34:15 51:19 52:6 57:9 59:10, 13 103:22 142:13 International 6:10 interpret 54:17 88:1 89:12, 14, 15 129:22 184:16 186:12 189:8 197:9 interpretation 46:16 56:13, 16, 22 57:5 86:18 132:19 133:19 179:5 184:23 185:22 192:25 199:20 207:7, 9 interpreted 87:17 182:20 197:14 Interrogatories 5:3 interrogatory 187:10, 12, 14, 15, 18, 20, 23 Interruption 150:25 introduce 18:1 45:17 162:20 163:17 164:20 introduced 164:14 introduction 46:21 164:19 165:6 invade 9:9 invitation 119:22 invited 61:5, 7 62:19 66:24 119:3 143:25 involve 24:21, 24 69:7 involved 23:18 25:20, 21 34:2 35:10 36:4 59:23 60:3, 6 69:10, 11, 15 73:15 75:24 76:6 101:13, 17, 21 184:4 involvement 30:9 76:2 160:10 172:25 173:1 involves 23:4 28:25 86:3</p>	<p>involving 137:4 209:23 irrelevant 65:25 ISAAC 1:3 5:1 6:4 7:19 isolation 195:15 issue 43:21 44:5 49:2 103:9 117:13 171:24 issues 69:7 issuing 42:18 items 148:13 its 20:17, 17 24:25 35:8 36:9 38:7 43:22 58:12, 12 86:9 107:1 115:24 116:6 152:18 153:9 161:8 175:7 181:2 185:4 203:4, 5 < J > Jacobson 63:16 64:15 119:4, 17 131:23 132:7, 12 137:8 139:14 150:1 Jacobson's 133:13 James 113:21 165:21 166:23 Jamie 112:21, 21, 25 113:10 166:17 January 180:22, 23 JANUS 2:6 3:5 6:15, 15 7:1, 2 9:11, 19 11:9 12:11, 19 21:9, 17 25:13 26:4 27:7 28:19 30:20 31:10, 15 33:8, 15 34:6, 23 36:5, 14, 22 37:4, 12 38:17, 24 39:10 40:7, 16 41:4, 7, 10, 19 42:5, 16 43:11 44:3, 12 48:18 51:16 52:1 53:1, 18 54:9 56:1, 17 57:16, 18 58:5, 16 59:1 60:8, 16 62:3, 12 66:1, 10 67:10 68:10 70:1, 7, 15 72:24 73:11 74:4,</p>	<p>20 75:5, 8 76:18 77:8 78:14 79:10, 22 80:3, 14 81:3, 14 82:24 83:12, 23 84:1, 11 86:14, 21 87:5, 16 88:17 98:5, 23 99:8, 10, 13, 18, 22 100:5 104:7 106:17 108:5, 8, 11, 19 109:24 115:7 116:23 117:22 122:24 128:1, 10 129:17 131:22 135:5, 19, 22 137:1 138:17, 24 142:14, 18 144:21 149:16 151:3, 9 153:15 169:18 171:10 172:5, 18 173:21 175:13, 17 178:9, 17, 24 181:9, 13, 16, 18, 21 182:15 183:7 184:10, 18 185:2, 8, 15 186:1, 15 187:4 188:17 189:12, 21 190:13, 19 191:4, 13, 22 192:11 193:3, 16 194:5 195:18 196:1, 15 197:6, 19 198:1 199:14, 22 200:5, 17 201:18, 24 202:6, 14 205:9 207:18 208:6, 16 209:4, 10 210:10, 21, 25 Java 182:3, 13 Jeremy 106:2 Jim 2:13 6:19 job 8:15 74:12, 14 143:19 145:22 177:4 joined 14:15 15:12 17:23 127:25 163:14 judge 8:6 jury 8:6 < K > keen 72:12 73:15</p>
---	---	---	---

<p>keep 53:8 112:9 204:11 205:5 208:9, 21 keeping 160:21 205:16 208:24 kept 209:1 key 204:23 205:2, 19 keys 46:24 47:2, 3 kick 145:24 146:1 kind 45:2, 11 107:9 157:21 159:1 Kingdom 1:13 16:8, 16 194:11, 19, 20 196:14 198:11 knew 9:24, 25 46:23 108:22 109:8 156:24 157:4 165:9 193:11 know 10:16 11:10 20:6 21:11 26:6, 9, 25 27:25 40:8, 9, 22 41:5, 11 42:12 46:24 49:25 50:1, 24 59:23 60:25 62:5, 6, 13 64:8, 23 65:15, 20 69:4 74:21, 23 76:19, 20 78:20 80:12, 21 83:17, 19 84:13 85:3 87:22 88:11, 14 89:5 91:18 93:15 98:2 99:2, 6 100:11 105:19 109:1, 18 112:25 113:1, 24 116:14 121:10 124:2 125:21 126:4 127:24 128:4, 6 130:11, 22 133:15 134:20, 22 137:23 138:11 139:5 144:18 147:24 149:22 155:15 156:6 157:7, 17 165:10, 17 166:1, 11, 15 167:11, 16 171:18 172:6 175:18 178:22 180:16 182:22 183:8, 24 184:2</p>	<p>186:13 187:10 188:18 192:5, 10 193:5, 19 194:4 195:13 197:13, 20 198:24 199:2, 10 201:25 202:1, 7 203:4, 9, 10, 16 knowing 61:18 63:19 156:23, 24 157:4, 7, 11 163:12 174:5 177:8, 11 184:8 194:18 knowledge 58:12 61:22 62:4 94:2 115:16 136:3 172:19, 20 188:15 197:20 203:4 known 84:6, 6 141:16 147:19 169:14 < L > lack 11:8 21:7, 14 36:2, 11, 19 37:1 42:12 43:25 44:8 58:2 61:25 62:9 72:20 73:6 74:18 76:15 77:3 79:6, 8 80:10 81:1 83:8 84:9 86:11, 17 87:1, 15 88:15 98:1, 22 104:2 127:23 128:8 131:20 142:11 171:25 172:14 175:10 178:6, 14 181:7 182:10 184:14 188:13, 19 190:10, 25 192:8, 23 194:2 195:10 197:16 199:12, 18 200:1, 13 201:13 202:3 205:7 207:14 208:5, 14 210:15 Lagerweij 139:16, 17 140:5 150:1 land 81:23 Lane 7:11 language 28:16</p>	<p>150:14 laptops 120:5 large 32:8 larger 31:18 32:6 Larry 63:16 64:15 119:3, 17 131:23 132:21 133:21 lasts 196:8 latest 53:9 launch 61:5 launched 150:19 Lauren 156:1, 1 Lauren's 159:10 law 8:6 Lawrence 75:3, 11, 16 Laws 199:4 200:21 lawsuit 10:17 186:3, 17 187:24 188:10, 22 lawyer 186:24 lawyers 210:3, 3 lay 81:23 210:16 layperson 182:19 Lead 69:17 71:8 75:13 89:18, 20 147:16 162:20 164:20 leading 112:22 167:1 leads 71:9 74:13, 14 156:2 206:5 LEAH 2:6 6:15 learn 54:5, 10 177:22 184:3 learned 102:11 170:20 leave 65:3 led 173:24 174:7 left 57:11, 15 64:25 65:15, 24 66:4, 14 162:18 legacy 110:10 legal 32:24 35:11 55:23 67:20 68:14, 21 101:25 102:1, 2 117:5, 7 177:11 178:21 182:24 184:14 185:22 188:14, 19 190:9 192:23, 25 195:10</p>	<p>209:17, 24 210:16, 20 legally 68:17 legislation 199:3 legitimacy 57:23 legitimate 54:19 legitimately 107:5, 16, 25 length 24:2, 3 191:6 lengthy 104:12 letter 183:10 194:3 196:20 letters 7:18 level 59:16 60:14 74:11 94:4 110:11 141:3 146:4 169:6 leverage 170:10 liaise 125:15 library 126:19 128:25 129:6 license 19:4, 5 20:21, 24 21:3 25:16, 25 26:6 27:1, 14, 17, 21, 22 28:1, 2 33:1, 2, 4, 10 34:3, 8, 18 35:4, 8 36:9, 18, 25 38:5, 8, 10 39:6, 17, 25, 25 40:8, 21, 22 41:11, 24 42:6, 8, 13, 13, 15, 21 43:14, 18, 23 44:11 50:20, 22 51:3, 5, 17, 23 52:6, 11, 17 54:15, 17 55:2, 3, 13, 22 56:10, 14, 19, 20, 22 57:5, 8, 13 67:18 68:22, 24 74:24 76:14, 25 77:2 78:24 79:17, 24 90:10, 13, 16 95:21 96:3, 8, 17, 20 97:1, 23 102:12, 17, 19 103:8, 17 104:1 107:5, 6, 12, 15, 24 108:8 109:2, 11 113:25 114:15 117:18 120:13, 23 122:7, 12, 17, 19, 25 125:4, 12 126:17 127:12, 14, 15, 18, 22 128:20, 23 129:4, 13</p>
---	---	---	--

132:20 133:23 134:7, 9, 10, 16 135:2, 17 136:1, 5 137:7, 10, 22 138:8 147:9 148:15 170:13, 17 171:24 172:7, 12 173:15, 18, 23 174:1, 4, 18 175:2, 4, 7 177:24 178:4, 11 179:2, 10, 14 180:5, 8, 12 181:1, 3, 6, 23 182:3, 7, 13, 18 184:13, 24 185:6, 14, 20 186:4, 19 188:5, 12, 24 192:17 193:8, 11 194:1, 16, 18 196:3, 22 197:9, 10, 14 199:15, 20, 24 201:10, 16, 19 206:9 207:19 209:15 licensed 52:11 103:2, 6 105:13 114:6, 11, 15, 22 116:16 117:15 171:13 172:24 202:20 licensee 120:23 licenses 22:25 32:20, 24, 25 35:20, 25 42:18 43:22 44:6, 7 79:15 126:19 127:2, 20 137:20 138:4, 6 181:12 198:24 199:6, 6, 10 licensing 20:17 21:5, 12, 18, 21, 22 22:3, 11 25:9 26:18 29:10, 24 31:5 36:24 37:6 40:11 41:13, 25 42:8, 18, 24 43:16 80:8, 18 96:1 97:20 127:7 128:3 135:12 136:11 173:2 Life 143:6 lifecycle 142:24 liked 72:12	limit 35:8 74:5 79:11 108:22 limitation 43:18 limitations 35:18, 24 108:25 109:9, 11 limited 35:4 36:1 42:6 88:3 143:22 149:6 177:24 178:4, 11 189:8 192:17 210:2 limiting 34:17 Linda 2:12 6:9 line 13:17, 24 14:1 17:1, 15, 19 18:7 19:15, 24 23:19 24:20 35:1 38:4 59:17 84:2 92:12 139:22 140:8, 25 141:10, 12, 16 142:10, 19 143:2, 7, 16 148:25 151:19 156:3, 15 215:5 lines 13:18, 23, 24 18:1 72:7 85:12, 18 86:1 141:6, 8 143:4 link 195:1, 24 linked 154:14 list 24:12 76:17 115:11 142:4 207:3, 5, 6, 8 listed 175:3 listening 31:13 little 76:22 88:13 96:18 141:19 168:9 live 160:23 lives 65:23 ljanus@fredlaw.com 2:5 LLP 1:12 local 158:6 locate 10:19, 23 located 40:4 65:20 155:24 156:4 158:9 188:1 location 121:3 193:1 197:15 198:3, 13 200:11, 12, 19, 20 locations 198:15	201:11 locks 46:24 47:2, 3 logic 104:22 115:14 151:22 London 1:13 6:12 7:11 47:1 61:6 65:23 86:1 133:21 155:24 168:7 212:5 long 14:2, 7, 11 15:4, 11, 20 56:5 58:23 59:19, 21 61:15 113:12 118:15 119:20, 23 154:18 longer 14:5 65:17 89:2 114:15 156:5 166:13 183:17 look 12:2, 3 30:22 74:25 100:15 104:8 112:7 115:9 116:17 117:13 124:16 125:21 126:3 129:9 133:8, 15 155:18 156:25 157:11 175:18 179:20 180:9, 14, 20 209:16 looked 85:16 103:24, 24 104:9 117:3 126:10 looking 12:24 13:1 29:22, 23 30:6, 16 31:2 78:8 85:15 106:13 113:23 120:2 122:15, 16 125:3, 10 126:8 133:22 160:7 191:23 195:15 204:11 looks 79:16 85:21 97:24 112:20 113:6, 23 137:16 145:9 175:23 loop 177:5 loosely 46:8 loosely-used 75:21 loosest 76:5 lose 88:21 losing 205:1 lot 129:20 166:21	173:12 low 86:3 lower 148:20 lunch 99:7, 11 116:25 168:8 Luncheon 100:2 < M > mailbox 10:13 main 13:14 29:19 61:16 163:6, 7 maintain 197:8 maintained 55:5 maintenance 29:1 171:15 major 21:13 29:4 making 75:11 101:9 160:20 165:9 177:1 Male 85:11 manage 93:2 managed 51:7 105:8 131:9, 21 159:18, 22 160:1 Management 14:1 17:15, 18, 25 18:5, 7, 12, 22 19:9, 12, 17, 18, 24 20:4, 5 26:20 61:9 62:22, 25 139:22 141:10, 13, 16, 22 142:1, 9, 19 144:8, 8 145:3, 5 156:3 170:15 manager 14:15 17:5 94:18 106:2 123:16 139:18 140:4, 8, 10, 14 141:12, 18 142:22 167:17 206:21 207:4 managing 14:8 94:22 131:17 manner 45:4, 21 46:4 48:20 map 92:19 Mapping 92:21 March 111:9, 10 112:16, 20 113:21 118:6, 10, 12, 13 121:18, 22 122:2 131:8 133:10, 13
--	--	---	--

183:12, 13 189:16 190:20 194:8 Mark 75:2, 10, 15 85:11, 17, 19, 22 123:4, 15, 16 146:25 205:8, 12, 14, 16, 22 206:11, 18 207:7, 15, 23 208:20 marked 70:18, 21 77:11, 13 84:24, 25 91:4, 6, 17, 20 100:8, 10 105:17, 18 109:13, 14 110:2 112:10, 11 117:25 118:1 121:7, 8 125:19, 20 126:2, 9 128:18 133:8 139:3, 4 147:22, 23 149:20, 21 155:13, 14 165:14, 15 175:14, 15 180:15 183:4, 5 187:5, 6 189:13, 14 193:17, 18 203:13, 15 marketing 156:2 Mark's 205:5, 12 207:4 209:1 Masters 16:10, 12, 20, 24 match 20:8 21:1 material 194:9 materials 32:24 156:23 matter 6:4 114:9 119:5, 18 175:3, 12 177:11 matters 41:24 Matthew 85:11 maximize 43:22 44:6 maximizes 151:25 McCarthy 94:17 McKenna 1:12 6:11 mean 9:14 11:16 13:11 20:24 21:25 22:5 24:10 26:12 28:6 30:8 33:13 34:5, 8 35:14 40:14 44:14, 25 45:22 46:1, 9, 17 47:2 50:21 53:19	55:6 56:25 58:12 59:12 67:15 73:7 74:17 75:21 84:21 87:25 97:22 98:7 106:8 113:4 116:21 126:23 127:5, 8 130:6, 9 142:17 146:1 147:1 151:15 153:2 156:9 157:6, 15 163:8 164:1 167:15 169:6 171:3 181:17 182:12 185:10 195:1 197:14 198:12, 16 203:6 206:1 207:2 Meaning 46:15 59:21 74:19 84:15 92:21 98:6 116:20 121:1 147:2 179:4 182:25 188:19 196:12 208:24 means 22:4 33:11 37:19 58:25 74:21 78:21 86:19 87:18 90:3 97:17 98:9 127:10 182:19 184:8, 8 186:12 197:8 meant 28:17, 18 67:24 74:23 98:12 99:14 129:18, 18 130:11 131:12 157:25 169:1 178:22 181:16 185:23 186:13 204:12 measure 32:11 46:8 147:3 Media 6:3 meet 59:25 91:3 121:25 126:15 meeting 9:20 60:11 72:6 91:5, 8, 11, 14 92:4 93:7, 19, 22 118:2, 3, 6, 14, 17, 18, 24 119:6, 20, 24 120:1, 5, 8 121:18, 22 122:2 162:20 163:10 164:19, 23	165:3, 5 174:18, 21, 23 175:23 176:7, 8, 20, 22 177:6, 16, 17 204:7, 22 208:4, 11, 19, 21 meetings 23:25 63:17 165:5 176:22 meets 23:22 member 47:19 members 37:21 memory 51:15 60:20 61:13 68:8, 14 69:1 112:1 145:9 199:13 mention 57:20 81:9 117:17 157:14 175:3 180:7 196:12 198:5, 9 mentioned 17:14 20:20 29:5, 10, 13, 16 30:15 31:23 32:6 40:19 45:3, 6, 8 47:24 54:21 57:2, 21 59:14 60:13 63:7 67:8 68:14 80:22 81:5 93:10 98:13 101:4 123:6 133:3 134:23 138:7 139:24 143:7 150:23 156:13, 18 158:23 161:11 163:5 172:23 179:11 198:2 204:6 mentioning 53:15 95:5 173:14 mentions 179:14 198:10 Merchant 2:8 6:17 merely 159:13 merged 171:19 merger 170:13 171:21, 23 172:7, 13 175:25 176:10, 11 202:2, 10 203:5 message 45:15 107:23 205:20 met 9:13 60:10 72:8 124:4 133:21 150:21 156:24 168:19	methodology 92:16, 17 150:23 151:7, 12 152:2 153:1 154:9, 21 155:7, 8 Miami 145:2, 13 Middle 38:3 83:23 84:2 88:7 94:14 110:4 128:18 133:2 140:1 189:24 194:6 migrating 86:3 Mike 22:24 67:22 81:23 82:22 113:14, 16, 21, 23 114:4 115:8 166:13 167:7, 20 170:6, 19 171:12, 19 173:5, 9 174:22 175:20, 22 176:5, 15 177:3, 8, 25 205:4 208:7, 18 Mike's 178:8 mind 101:25 106:22 138:16 174:24 184:11 Minneapolis 2:4, 9 MINNESOTA 1:3 6:6 minutes 189:10 misarchived 88:22 mischaracterizes 191:10 misstatement 81:7 misstates 27:6 31:8 37:1 39:8 55:24 72:20 135:18, 21 153:10 169:12 181:7 misstating 181:9 Mm-hmm 63:10 144:6 164:4 166:12 199:7 202:25 MN 2:4, 9 model 130:23 138:7, 8 146:25 147:6 models 113:19 modification 35:11
---	--	--	--

module 33:20, 25 122:23 126:18 128:24 130:19 modules 109:3 150:19 155:4 Moffat 64:2 123:3, 6, 10 125:6 129:10 131:4, 8, 23, 24 133:11, 13, 14, 20 134:6, 20 135:10, 16, 25 136:10 137:6, 7 139:13 146:11, 20, 23 148:7 149:25 150:6 162:18 Moffat's 150:3 Moffatt 63:12 moment 14:19 22:25 47:23 50:25 70:19 85:2 Monday 183:20 monitor 6:8 month 98:17 102:4 144:25 months 10:4 15:5 64:25 66:4 144:1 morning 7:3, 4 112:20 167:22 move 128:17 165:8 170:2 moving 151:21 multinational 107:2 120:18 multi-national 106:19 multipally 198:8 multiple 49:7, 11 103:12, 19 107:4 120:20 124:15 130:8 141:8 157:11 198:15 mutually-agreed 44:10 < N > Nabarro 1:12 6:11 name 7:5, 17, 21 46:21, 23 61:11 71:24 94:10 139:15 167:14, 14 199:13	named 44:21, 25 84:13, 18 107:9 123:25 207:4 names 45:18 narrow 43:21 narrowly-tailored 44:5 Natalie 137:14 nature 159:11 171:12 173:6 near 27:23 28:5 88:6 necessarily 38:13 47:12 77:5 86:20 147:17, 20 169:24 198:11 necessary 40:3 214:4 necessity 153:19 need 26:9, 21 27:25 39:13 40:8, 13, 18, 22 45:2 59:10 72:13 73:14 93:15 99:11 134:2 137:23 180:9 202:22 needed 93:16 95:13 115:25 needs 24:16 32:17 37:25 154:5 negotiate 147:20 207:11 negotiated 205:24 neither 35:10 net 182:1, 3, 13 network 198:19 networked 125:8 never 166:15 new 19:3 31:17, 25 45:17 52:11 54:22 55:1 61:5 70:6 78:11, 23 79:14 83:14, 21 87:4 92:17 110:9, 11, 20 111:2, 20 125:6 131:15 135:4 138:7 144:13 160:7 163:15 190:23 205:24 206:14 newer 134:23	news 156:14, 19 158:3, 19 159:8 162:10 165:24 166:3, 7 171:20 190:7, 14 nicely 115:15 nine 15:5 nineteen 108:13 nods 9:3 non-banking 84:17 non-compliant 183:18, 25 184:9 185:24 non-customer 31:17 North 95:2, 7 Notary 213:20 note 95:10 96:7 189:19 noted 127:13 143:10 161:24 214:8 notes 120:6 148:9 notice 15:17 170:12 174:6 193:25 notification 174:5 notified 172:17 194:8 noting 95:23 141:14 number 12:1, 21, 21 13:3 23:25 33:24 35:12, 15 37:24 63:20 75:4 100:9 110:12 123:9 157:17 164:11, 21 179:14 187:10, 13, 15, 23 195:17 200:15 202:23 numbers 38:11, 13 < O > o0o0o 211:4 oath 8:3 38:25 70:16 100:6 139:1 209:11 Object 9:8 27:5 30:18 74:1, 18 77:3 79:7 81:8 82:19 84:9 98:1 131:20 178:20	190:9 191:9 208:22 210:15 Objection 11:8 12:9 21:7, 14 25:10 26:2 28:18 31:8 34:4, 19 36:2, 11, 19 37:1 39:8 40:12 41:8 42:2 43:25 44:8 48:16 51:24 52:24 53:14 54:7 55:23, 24 57:14 58:2, 14 61:25 62:9 65:25 66:2, 8 67:7 69:23 72:20 73:5 74:5 76:15 79:6, 11 80:10 81:1 83:8 86:11, 17 87:1, 15 88:15 98:22 103:10 104:2 115:5 116:19 117:20 122:21 127:23 128:8 129:15 135:3, 18, 21 136:23 142:11, 16 153:10 169:12 171:25 172:14 173:19 175:9 178:6, 14 181:7 182:10 184:6, 14, 22 185:21 186:5 188:13 190:25 194:2 197:16, 22 199:12, 18 200:1, 13 201:13 202:3, 11 205:7 207:14, 22 208:5 objections 37:8 41:15 56:11 74:6 79:12, 19 190:16 192:8, 22 195:9, 22 196:7 201:21 objective 101:8 119:8 objectives 20:14 25:2 170:25 obligation 203:1 observation 207:5 observed 104:3 obtained 199:23
--	--	---	---

<p>obviously 106:8 166:16 occasion 32:25 33:1 144:7 147:21 occasionally 35:25 occasions 35:12 69:3, 6 81:13 occur 144:11, 16, 17 171:23 occurred 61:12 118:10 144:23, 24 162:22 172:7 October 15:21 87:6 92:1 100:19 104:9, 11 105:3 106:13 144:15, 16 odd 190:20 208:17 ODM 168:6, 12, 13, 16, 24 169:10 176:2 offer 20:9 151:5 offered 28:7 93:14 129:5 offering 73:14 150:17 offhand 116:24 office 80:21 81:11 91:3 155:24 158:23 165:8 170:15 212:21 offices 118:20, 21 142:3, 4, 7 off-the-record 38:19 70:10 99:14, 23, 25 138:19 191:17 209:4, 5 211:1 Oh 65:16 89:23 91:22 124:8 128:17 139:9 140:17 142:21 149:17 159:20 172:23 Okay 7:15, 20, 22, 25 8:5, 11, 12, 13, 20, 24 9:3, 5 10:1, 12, 15, 22 11:2, 5, 12 13:22 14:11, 18 15:10, 14, 22 16:2, 13, 24 17:3, 4, 9, 13, 21 18:14, 24 19:11 20:6 22:9, 16, 22 24:3, 8, 14 26:25</p>	<p>27:12, 21, 25 28:9, 15, 23 29:4, 18 30:13, 24 32:13, 23 33:9 36:15 37:13 38:14, 17, 18 39:3, 22 42:6 46:19 47:4, 6, 9, 16, 20 48:8, 12, 18 49:8, 11, 19 50:10, 15, 17 51:1 52:16, 21 55:8, 8, 10, 15 57:6, 11 58:12, 22 59:2, 25 60:17, 23 61:3, 12, 20 62:4, 24 63:1, 18, 22 64:2 65:13 66:6, 11, 13, 16, 23 67:4, 17, 21 68:1, 20 69:2, 6, 21 70:8, 22, 25 71:3, 14, 17, 21 72:9, 25 75:15 76:7, 12, 19, 22 77:11, 21 78:8 79:3, 16 81:15, 22 82:16 83:2 84:5 85:4, 5, 21 86:15 88:7, 20, 23 89:8 91:21 92:4, 7 93:7 94:13, 24 96:7 97:4, 7 98:6 99:10, 12, 18, 22, 23 100:14 101:12 102:4, 15 103:1, 23 104:16 105:8, 15, 21, 22 106:11 107:18, 22 108:11, 22 109:23 110:1, 2, 4, 8, 20 111:4, 9, 11, 23 112:15, 24 113:10 114:4, 10, 18 115:3, 8 116:5 117:6 118:18, 22 119:6 120:1 121:9, 12, 13, 21, 24 122:15, 20, 25 123:17 124:11 125:24 126:8, 8, 13 127:11, 16, 20 129:12 130:1, 9, 20, 22, 22 131:8 132:7 133:4, 10, 20 134:6, 15 136:4 138:18, 25 139:3, 9, 10, 11</p>	<p>140:11 141:3, 9, 18 144:11 146:5 147:15 148:1, 2, 9, 18, 23 149:24 151:4, 18 153:16, 25 154:3 155:17 156:12, 18 158:11 159:24 160:4, 10, 17, 24 161:6 165:1, 16, 18, 18 166:3, 7, 10 167:7, 20, 25 171:11 173:10 176:5, 13 177:22 179:18, 22 180:3 183:11, 14 184:11 187:3, 19, 21, 23 188:9, 21 190:7 191:5, 15 194:23 195:6 196:19 197:13 199:6, 10, 15 201:8 202:7 203:3, 18 204:9 205:3 209:4, 13, 20 210:11, 21, 25 old 167:14 Oli 121:25 OLIVER 1:9 3:5 6:4, 23 7:6 71:7 74:23 75:13 111:13 156:13 167:21 176:5 212:6 213:4, 13 Olly 87:12 128:14 133:21 Olswang 1:12 6:11 Once 9:24, 25 23:12 27:21 60:10 69:4 93:2 143:23 145:25 146:7, 7 152:1 open 86:18 132:19 163:9 177:1 opened 33:1, 3 Operator 6:9 opportunities 19:3, 4 20:21, 24 29:10, 16, 24, 24 30:6 36:24 37:5 40:19 41:14, 22 43:6, 12, 15 73:19, 25 74:9 170:10</p>	<p>opportunity 21:2 23:14 25:21, 23 26:10, 21 27:20, 22, 24 28:2, 5, 12 32:15 36:8, 24 37:6 38:8 39:14, 16, 19 40:5 41:17 42:23 43:3 80:8, 18 95:20, 24 96:1, 3, 6 114:14 127:18 207:20 opposite 31:9 optimistically 206:3 optimize 153:17 option 114:7 150:17 optionals 119:2 Oracle 86:4 orally 79:23 order 12:23 15:5 33:23 41:17 99:2 124:2 181:4 organization 49:10 133:1 135:4 157:13, 16 162:18 163:14, 23, 24, 25 164:9 209:24 organizationally 141:2 organizations 161:21 198:7 organization's 158:12, 17 organized 18:6 117:10 organizing 158:7 original 110:24 116:8 132:4 137:23 214:10 originally 101:16 originated 36:18 38:5 originates 38:9 ought 59:16 outline 23:20 24:15, 18, 23 outlining 112:16 outside 9:20 21:22 107:13 108:1, 23 109:8 183:18, 25 185:1, 20 186:3, 18 188:14 190:3, 7, 15</p>
--	--	--	---

<p>192:4, 13 194:10 200:22 overall 13:10, 11 32:12 44:1 49:9 115:23 138:13 188:20 overlap 142:25 overran 119:25 overview 60:14 owned 40:20 owns 25:4</p> <p>< P > P.A 2:3 Page 3:1 4:1 75:2 77:15, 23 82:4 83:22, 23 85:6 91:25 94:13, 14 100:15, 18 106:12, 14, 15, 16 109:16 110:2, 4 111:11 126:8, 9 128:18 133:8 137:5, 9, 13 139:13 155:18 165:20 171:11 179:22 180:21 187:21 204:5 213:8 215:5 pages 109:19 213:5 paid 171:16 pan-European 130:4, 6, 10 146:16 150:12 paper 168:13 paragraph 72:9 93:13 95:10 106:18 115:22 124:21 189:22, 24 192:16 194:6 195:25 paragraphs 203:23 parallel 137:3 parent 136:17, 18 parentheses 89:12 part 25:5, 6 33:21 95:17 96:5, 8 101:8 108:8 122:7, 19, 25 123:24 126:24 133:25 143:18 152:5 160:22 161:16</p>	<p>162:2 164:15 172:16 179:1 204:7, 16 205:12 206:15 207:16 particular 13:1, 8 27:1 41:13 43:5 61:19 106:7 117:1 124:11 132:22 164:7 198:3 parties 23:10 44:9, 11 68:15 201:22 212:15, 17 partner 19:6 22:12, 17 25:19, 22 39:21 40:20 47:21 50:9 63:4, 9 64:14, 18 82:9 84:12 94:22 97:6 102:16 123:12 166:14 partners 22:13 partner's 129:8 parts 33:17, 18 157:12, 16 party 209:22 pattern 15:17 Pause 70:22 75:5 77:17 85:4 91:21 99:5 100:12 105:20 112:13 121:11 126:5 133:16 139:6, 9 147:25 149:23 155:16 165:16 175:16 180:17 183:9 187:11, 19 189:16 193:20 196:16 203:17 pay 137:11 pending 175:9 people 21:22 32:9, 11 37:10 45:18 59:25 63:1, 2, 7 76:16 123:9 143:15 157:10 158:8, 8 163:16 166:22 people's 79:8 per-application 148:20 perceived 96:18 percentage 138:9</p>	<p>perception 45:17 49:6, 22, 23 54:2 95:8 perfectly 162:17 perform 90:6 performance 200:24 201:1, 3 performing 19:8 period 32:16 53:2, 3, 13 59:20, 22 60:1, 24 61:3, 15 62:15 99:3 periodically 32:10 periods 13:12 permissibility 210:12 permitted 201:23 perpetual 182:2, 12 person 22:12 61:22 62:6 124:1, 12, 13 personal 10:10 72:7 85:12, 18 173:1 personally 36:3 perspective 27:10 92:25 116:14 151:25 164:6, 8 phase 24:6 152:25 phases 152:8 Phone 2:5, 10 phonecall 173:5, 8 phonecalls 66:13 phrases 192:6 physical 193:1 198:13 piece 31:20 pieces 102:20 103:13 Pin 65:19 Place 1:12 6:11, 12 13:14 18:3 56:13 61:19 68:15 76:4 90:14 121:2 128:11 166:25 200:21 212:8 places 57:23 103:12 120:20 Plaintiff 1:6 5:1 Plaintiffs 2:2</p>	<p>planned 119:13 145:17 149:2 204:24 planning 54:21 168:8 178:7 plans 178:8 platform 61:9 62:25 182:4, 13 play 124:3 207:17 playing 87:12 please 6:13, 22 7:5 8:10 21:8 26:3 31:10 34:22 39:9 41:9 43:2 52:4 57:16, 17 74:5 75:4 78:15 79:11 85:2 91:13, 18 93:15 100:11 105:19 111:13 117:22 122:6 123:18 124:22 125:21 126:20 130:23 165:25 166:11 170:15 179:12, 15 180:14 189:3 191:12 195:14 210:8 214:3, 7 plenty 94:25 plugs 23:13 pm 75:7 99:25 100:1, 3, 4 138:19, 20, 22, 23 191:18, 20 209:5, 6, 8 211:2, 3 POC 75:19 76:5 78:12, 17 point 24:3, 4 25:15 38:15 50:18 61:16 67:11, 19 89:15 129:12 140:19 153:2 163:5, 6 167:1 177:22 197:18 209:14 210:11 pointing 95:20 132:12 points 160:16 policies 53:22, 23 policy 11:11 110:10 113:9, 9</p>
---	--	---	--

<p>128:14 portfolio 42:4 posed 134:20 position 13:15 14:14 32:21 41:20 49:10 74:22 76:23 94:21 127:6 139:19, 21 140:23 143:8 165:10 172:12 173:23 175:7, 10 177:23 178:3, 10 182:7 185:19 186:2, 14, 17 187:24 188:10, 22 192:12 195:6 196:2, 4 202:8 positioning 33:19 positions 14:13, 19 166:15 possibilities 156:13 possibility 156:18 157:5 161:19 possible 31:4 77:9, 10 88:20, 23, 23 158:3 161:11 200:6 possibly 89:20 135:1 137:19 potential 27:20 29:16, 23 31:2, 2 39:14, 14, 16 44:6 74:14 95:5, 23 96:6 110:20 146:19 157:1 158:25 159:14 161:20 171:5 200:15 Potentially 42:20 97:6 101:5 159:10 201:5, 7 powder 204:11 208:21, 25 practical 18:15, 17 198:14, 17 practice 11:2, 13, 14 32:14 51:21 52:5, 9, 13 69:17 89:18 103:15 125:9 127:20 128:2, 4 162:19 164:20 precise 36:12 50:25</p>	<p>65:2, 4, 6, 8 precisely 18:3 119:7 precision 10:5 preconception 159:13 precursor 90:7 pre-existing 25:25 prefer 37:5 preference 44:2, 4 99:8 prefers 36:23 43:21 premises 46:25 premium 113:8 preparation 9:21 12:4 71:5 89:9 99:16 149:14 prepare 9:6 10:23 124:24 prepared 148:7 preparing 105:24 presale 140:20, 23 Pre-Sales 13:16, 19 14:3 15:3, 16, 25 17:7, 11, 23 18:11, 25 20:7, 11 21:12 23:2, 13 24:7 37:15, 21, 23 38:6 41:21 64:16 112:22 120:9 139:20 141:9, 21, 25 143:16 167:1 Present 2:12 14:9 37:6 68:6 73:19 74:14 121:20 presentation 45:9 47:10, 12 53:6 presented 48:23 49:13 60:13 93:10 191:2 presenting 171:8 press 30:10 presumably 40:22 102:22 200:9 Presumes 181:8 presuming 181:11 pretty 111:5 prevent 113:25 169:10 170:1 prevented 201:10</p>	<p>previous 69:2 84:7 104:3 139:12 177:8 182:16 previously 42:19 67:8 69:7 126:10 127:13 204:6 price 124:24 138:12 147:15 priced 138:9 pricing 97:18, 25 98:3 130:23 146:21 primarily 25:18 63:3 primary 19:2, 10 20:7 21:5 41:20, 23 principal 21:16 35:23 printing 212:10 prior 14:13, 24, 25 15:6, 7, 18 16:3 18:4, 10 37:2 55:25 57:15 65:11, 12 72:20 81:7 90:21 102:4 128:11 136:3 149:9 171:18 privilege 9:9 privileged 186:6, 25 210:5, 8, 9 privy 178:7 probably 48:6 66:4 132:9 problem 33:12 proceeding 175:23 process 11:6 21:21, 22 22:3 23:1, 4, 6, 8, 9 24:1 25:8, 15, 20 67:20 73:15 161:16 168:16 processed 35:13, 14 199:3 processes 199:1, 11 processing 198:21 200:21 201:23 202:23 processors 94:22, 23 procure 147:5 procured 132:9 produce 74:13 produced 10:17</p>	<p>product 9:10 19:14, 23 27:23 28:2, 6, 6 32:1 42:3 43:20 61:5, 8, 11 106:2 144:8, 8 145:3, 4 168:13, 17 169:16 170:3 production 93:3 productive 26:16 productively 26:14 27:3 products 19:21 20:12 43:7, 12 profession 146:9 professional 7:7 15:24 16:25 29:2, 7, 13, 25 31:6 32:9, 11 88:3 89:25 90:1, 2, 4 156:7, 9 profile 124:4 program 130:18, 18 161:25 programming 120:3 progress 19:3 23:11 58:21 183:16, 16 project 21:1 24:22 53:16 54:22 55:1 58:23 59:2, 3, 4 86:2, 13, 19 87:4 90:7 100:24 101:12, 13, 15, 17 104:10, 13, 24 105:2 110:9 147:6 152:5, 8, 25 175:24 176:18 203:25 projects 29:8 57:4 95:1, 9 96:25 124:15 151:13 153:1 154:11 155:7 171:17 promised 175:22 promoted 14:4, 16 promotion 14:6 promotions 18:19 Proof 75:19, 20, 25 76:2 78:17 proper 34:2, 5 66:2 192:17 properly 169:16</p>
--	---	--	--

<p>property 130:4 133:23 134:16 135:17 136:2, 6 146:16 proportion 208:1 proposal 34:11 146:23 148:2, 4, 5, 9, 23 149:6, 9 150:4, 8 162:15 163:1 propose 97:1 163:10 proposed 58:18, 20 111:19 112:17 114:5 proposing 53:12 prospect 20:25 21:3 31:17 prospective 30:12 161:14, 17 provide 8:8 28:12, 25 34:14 147:15 170:16 171:4 204:21 205:3 provided 21:3 148:2, 6, 9 149:6 provides 10:10 13:18 providing 28:21 146:19 provision 150:3 proximate 200:11 PS 87:21 89:22, 24 public 62:19 63:22 155:20 213:20 publicly 142:12 pull 72:13 137:19 purchase 147:9 purchases 181:3 purchasing 155:11 purely 30:6 purpose 22:6 46:3 60:11 83:5 97:4, 5 101:2 111:24 120:6 purposes 26:23 145:5 146:20 pursuant 107:1 push 156:22 161:25 put 12:21 102:7, 7 104:6 106:4 107:8, 25 117:8 121:2</p>	<p>172:8 putting 125:14 PwC 156:11 < Q > qualification 23:10 quality 59:10 quantify 12:1 62:1 163:14 quantity 147:19 quarrel 210:24 quarter 37:25 queries 93:16 question 8:9, 16, 23, 24 9:8, 17 10:6 12:3, 10 18:8 21:8 25:12 26:3 27:5, 13, 16 28:3 29:9 30:1, 18, 25 31:1 32:23 33:5, 6 34:21, 22 37:3 39:9 40:18 41:9 42:11 43:1, 8 52:3, 3 55:18 56:3, 4, 5, 15 58:15 60:22 62:11 66:6 67:14, 16 74:1, 8 76:22 77:21, 22 78:15 82:19 91:13 97:8 104:21 105:4 107:18 108:4, 11, 13 117:1, 21 122:20 125:10 127:17 131:9 134:18, 20 135:24 141:19, 20 143:3 152:20 166:19 173:6, 20 174:22 178:2, 16 179:12, 13, 15 181:10, 14, 16, 19, 20, 22 185:11 186:7, 10, 24 187:3, 16 189:3, 4 190:9, 12 191:9, 12 192:5 195:12, 13 196:19 197:17, 24 202:16 206:11 208:15 209:20 210:7, 15, 18 questions 8:8 43:10 59:6, 19 85:1 98:3 101:20 104:12</p>	<p>111:7 133:5 134:8 165:11 196:8 210:21, 24 Quick 131:9 quickly 19:20 106:4 152:1 154:22 quite 55:3 142:4 163:9 quote 96:13, 19 quotes 138:8 168:19 quoting 131:15 < R > raising 59:20 range 24:13 rarely 144:7 rated 97:18, 22 rating 110:12 113:7, 12, 18 116:6 118:4, 10, 16 119:10, 14 121:19 130:8 146:14 152:13, 14 160:7 ratings 113:1, 4, 6, 24 115:20, 21, 25 121:19 152:19 153:13, 22 154:1, 5 157:21 rationalization 175:24 176:12, 18 203:25 reach 37:25 101:7 131:25 133:14 165:10, 11 reached 37:20 78:5 101:16 104:4 108:24 157:20 reacted 203:9 reaction 203:10 read 30:2, 3 33:16, 17, 18 34:13, 24, 25 39:11, 12 77:20 91:23 100:14 105:21 108:11, 15 109:17, 20 117:23 129:22 134:4 178:18, 19 179:15, 16 183:10 187:12, 15, 17 189:7 210:24 213:4 214:3</p>	<p>reading 72:25 188:18 212:13 reads 156:15 Ready 126:6 real 120:17 realize 42:17 really 29:9 92:24 135:1 reask 33:10 reason 27:19 52:15 56:15 57:4, 23 61:2 114:16 120:12 137:2 158:18 163:19 166:18 198:9 199:23 200:3, 6, 7 201:19 214:4 215:7, 9, 11, 13, 15, 17, 19, 21 reasons 27:2, 25 149:12 176:19, 24 194:15 200:2, 15, 18, 24 201:17 215:3 reassurances 112:2, 6 recall 10:2 11:20, 21, 23 14:4, 6 28:21 33:19 44:18, 20, 21 45:7, 13 47:10, 14, 20, 22 48:1, 13, 17, 21, 22 49:15 50:5, 8, 12, 13, 13 56:4 63:25 65:2, 4, 6 66:19 67:21, 22 68:2, 9, 11, 14, 16, 20 69:9 71:13, 14, 21, 23 72:22, 25 73:2 76:21 77:21 80:5, 20 81:10, 12 90:23 93:24 94:1, 5, 10 96:22 99:17 114:19, 20 115:2 117:3, 4, 16 119:12, 23, 25 121:20, 22, 23 133:17 138:5 144:25 162:3, 8, 9, 14, 17, 22 163:2, 4 164:23 165:3, 4 166:8, 9 173:10, 12, 16, 24 174:2 176:14, 21, 23 177:14, 20, 21</p>
---	---	---	--

180:7 181:24 209:18, 19 recalled 115:3 recalling 68:3 receipt 214:11 receive 54:12 166:7 183:19 received 11:3, 4 45:10 55:10 72:18, 22 88:25 90:9 96:19 103:12 107:20 114:8 115:3 123:24 174:5 185:13 195:17 receiving 71:13 73:2 90:25 102:21 171:18 receptive 150:20 recognition 36:12 recognize 38:6 42:23 43:3 132:9 154:8 206:9 recognized 36:10 42:8 132:24 recognizes 20:16 recognizing 132:17 recollection 66:5 68:5, 12 79:16 85:15 90:8 91:1, 2 94:9 111:23 113:11 121:17 162:24 174:15, 23 180:10 181:5, 11, 13 recommend 92:17 158:21 recommendation 158:13 205:12 recommended 158:18 record 7:5 8:17 30:3 34:25 38:23 39:12 70:14 100:4 108:15 117:23 138:23 158:16 160:25 173:4 178:19 179:16 189:7, 10, 19 191:21, 24 209:9, 21 212:11 recorded 212:9	redeem 162:1 reduced 212:10 refer 25:3 46:8 48:4, 6 92:7 123:23 150:22 referencability 26:23 30:5, 7, 9, 22 31:20 101:8 171:1, 3 referencable 101:6 reference 30:11 136:24 156:23, 23 157:2 161:12, 14, 17, 22, 23, 25 162:2, 11 referenced 48:19 59:9, 12 references 171:5, 7 referencing 72:6 107:3 124:4 referred 10:25 101:12 referring 48:3 60:1 83:20 95:3 98:21, 24 106:25 124:7, 8 157:6 159:20 167:11 183:21, 24 184:2 194:24 refers 113:14 reflected 154:5 reflective 183:20 refresh 85:15 90:8 121:17 180:9 refreshments 150:25 regarding 128:19 171:17 175:7 195:9 regardless 20:9 40:5 154:11 region 18:1 38:3 42:9, 24 43:5 120:24 132:23 206:22 208:2 regional 37:18 65:5 146:4 148:15 158:7 regions 43:16 49:17 97:11, 15 101:20 106:22 107:1, 13 registering 159:14 regularly 32:20, 24 61:4	rejected 162:16 relate 105:23 related 69:21, 24 70:3 101:23 104:23 172:11 210:13 relates 104:21 122:22 relating 33:3 45:15 56:20 69:7 71:12, 15 75:16 76:8 92:14 97:8 99:15 105:1, 4 109:11 115:19 118:9, 15 121:18 134:8 137:16, 20 138:3 148:3, 5 152:13 153:13 179:1 181:24 182:17 191:7 195:8 196:5 203:24 204:21 208:4 209:15, 23 relation 134:13 relations 155:20 relationship 22:18 25:17 26:6, 23 27:14, 18 46:12 101:10 103:23 124:2 129:12 131:11, 18 157:22 165:4 195:20 relationships 94:23 157:12, 15 159:22 relative 97:15, 20 212:16, 17 relatively 18:20 97:12 125:6 143:9 relaying 146:22 release 156:19 158:3, 19 159:8 162:10 releases 30:10 156:14 relevant 136:20 176:15 relied 129:24 relies 185:22 Rely 185:7 191:10 199:20 remainder 129:9	remember 18:3 45:14 66:20, 22 78:24 88:19, 19 118:19, 22 119:1, 2, 7, 15 149:11 158:22 162:18 170:22 173:9 remit 84:16, 19, 21 155:23 164:14 remove 208:8 renegotiated 207:19 renegotiation 206:9 renewal 53:24 86:4 renewals 137:16 renewed 53:22 171:15 reorganization 17:25 18:4, 11, 14, 15 123:8 repeat 18:8 21:8 28:3 30:1 34:21 37:3 39:9 40:14 43:1 52:3 56:3 74:8 77:22 91:13 108:4 117:21 152:20 173:20 178:16 189:3 191:12 195:12 196:9 197:24 repeated 189:6 repeating 150:14 repetitiveness 31:12 rephrase 8:10 80:15 reply 110:6 report 140:7, 11, 16 142:12 Reporter 1:12 2:12 6:21, 22 212:4, 5 reports 140:14 141:13, 19 143:12, 13 represent 6:14 169:3, 15 representatives 63:6 66:24 represented 169:16 170:4 representing 6:9, 15, 18 106:1 request 47:21 130:2 require 53:23
---	---	--	--

<p>required 25:16 33:21 requirement 110:11 requirements 20:8 21:1 23:15, 22 24:9, 10, 12, 13 25:1 92:8, 14, 19, 21 93:12, 16 111:1 112:8 115:20, 21 150:20 151:10, 17, 23 152:9, 13, 21 153:8, 13, 17, 18, 20, 21 154:4, 13, 23, 24, 25 requirements-gatheri ng 23:11 152:25 re-read 117:22 reside 198:21, 21, 25 199:1, 11, 17 resides 65:22 199:11 residing 198:23 resolve 105:9 respect 43:13 46:11 65:21 82:20 103:23 195:11, 11 respective 183:15 212:15 respond 115:9 126:13 159:16 210:4 responded 105:3 137:6 162:3 responding 116:25 150:3 responds 81:15 82:1 97:7 135:10 response 60:22 112:19 115:1, 4 128:17 172:23 173:6 183:20 187:9, 16, 18, 23 210:7 responsibilities 18:22 31:23 41:20, 23 responsibility 19:2 25:18, 22 26:9, 13 27:3, 9 32:22 40:21 41:3 52:8 71:9 84:22 103:1</p>	<p>129:8 131:15 141:15, 17 202:5 responsible 13:17 19:6 22:12 restrict 199:11 restricted 35:12, 20 109:2, 5 132:21 restricting 200:21 restriction 42:22 143:5 200:4, 8 restrictions 35:23 113:25 174:25 175:1 198:20, 25 199:16 restricts 199:3 result 95:12 112:19 162:13 182:1 206:4 resulted 107:13 results 106:21 182:1 retained 204:23 retrospect 117:4 return 214:10 revenue 20:16 21:6, 12, 13, 16 26:18 29:5, 19 30:15, 16 31:3, 4 36:10, 12, 18, 25 37:6 38:6 41:25 42:8, 18 43:4, 16, 23 73:25 74:10 80:18, 25 88:5, 6, 6 97:19, 22, 24 98:4, 6, 7, 9, 12 132:10, 17, 24 206:6, 8 207:21 208:1 revenues 42:24 44:6 80:9 review 9:16, 20, 23 10:7 12:7, 12 32:20, 24, 25 33:12 77:18 85:2 91:18 100:12 105:20 112:12 121:10 138:6 139:5, 7 149:19, 22 155:15 180:16 181:2 183:8 187:11 193:19 reviewed 10:8, 12, 20, 23, 25 12:6, 17 33:2, 10, 23 70:23</p>	<p>71:4 77:17 78:4 85:5 89:9 91:22 99:16 110:1 112:14 125:22 126:4 129:13 133:4 147:24 149:9, 13, 18, 18 165:17 175:19 180:18 187:20 188:25 189:17 193:21 203:16 reviewing 12:22 13:1, 7 85:3 99:17 revised 207:17 RFP 24:1 Richard 22:21 50:11 63:7, 9 64:18 78:1 79:21 80:6 82:3, 8 84:10, 13 85:7 89:19 95:23 96:6 97:5 102:9 104:4 139:14, 17 140:4 142:22 148:18 Richard's 94:18 right 24:4 32:19 66:23 67:2 68:11 83:15 91:24 105:4 111:3, 10 112:18 118:17 119:20 121:16 122:4 123:2 128:16 135:9 140:24 146:10 150:5 151:2 153:2, 18, 23 156:20 167:21, 23 169:20 176:6, 8 191:23 193:23 197:7 199:8 204:17, 19, 25 206:14 rigorous 75:23 Risk 141:16 142:24 143:6 risks 113:7, 7 role 14:4, 5, 7 15:15, 23, 25 21:18, 21, 23 24:7 26:15, 19 32:2 35:19 64:13, 15 75:13 89:18 123:12</p>	<p>159:10 163:21 166:23 167:13 172:16 room 197:1 Ross 63:12 64:9 162:18, 21 163:14, 17 164:18, 20 165:1 176:8 203:20 204:9 205:22 R-O-S-S 63:13 Ross's 165:9 208:25 rough 10:3 12:13 roughly 18:19 162:22 route 72:12 rule 189:20 rules 8:2 19:17 36:13 79:12 86:2, 4, 13 113:18 run 25:23 111:6 120:18 running 82:12, 23 95:9 145:24 146:2 179:25 Russ 69:16 78:1 87:20 88:8 89:13, 17 131:25, 25 133:13, 14, 17, 20 135:11 155:25 156:13 159:16 160:5 162:3 163:10 Russ's 89:18 < S > safely 152:1 sale 20:17 sales 23:6 25:8, 15 37:17, 24, 24 38:2 44:24 45:2, 11, 16 47:13, 23, 25 48:6, 13, 15 49:16, 20 59:15 63:6 71:9 74:13, 15, 15 94:18 98:25, 25 106:5 123:24 124:3 125:15 131:10, 13, 18, 19 133:1 137:15 143:22 144:11, 16 145:24 146:1, 3 157:9 158:4, 19</p>
---	---	--	--

159:6, 9 162:11 165:5 167:13 206:5 salespeople 37:11 63:3 65:5, 5 salesperson 19:6 37:14 84:23 147:20 167:18 Sam 118:25 154:18, 20 sarcastic 89:13 sat 71:19 satisfaction 32:12 saw 53:9 56:15 110:23 112:15 157:19 204:2 Sawyer 22:24 67:23 68:1, 4, 13 69:2, 7, 19 81:23 82:1, 20, 22 83:16 113:14, 16 114:5 115:8 166:13 167:7 171:19 173:8, 22 174:8 175:20 177:23 178:3, 10 179:8, 18, 22 180:20, 24 182:1, 7 204:21 205:4 208:7, 19 Sawyer's 182:10 saying 28:21 31:13 71:24 81:22 87:13 89:4 117:3, 4 132:21 133:14 153:7 158:15 161:6 167:15 174:2 185:13 198:24 207:7, 9 210:4 says 73:10, 10, 13, 18 78:13, 16 79:2 82:7, 20, 21 83:16 85:14 86:7, 12 87:11 89:19, 21 97:9 98:16 110:8 111:12 113:10, 16 130:24 131:8 132:3, 7, 11 135:6 136:5, 7 138:1 149:8 156:12 167:9, 20 168:11 170:7 176:5	180:24 182:10 192:16 204:9, 14 206:18, 23 207:10 208:25 scheduled 91:11 119:21 145:19 174:21 school 16:5 Schreiber 69:16, 18 78:1, 9 79:3 81:15 87:20 88:8 89:13, 17 131:25 133:13, 20 134:6, 21 135:6, 25 136:7 137:5 155:25 179:8 180:12 Schreiber's 82:1 science 16:10, 14, 20, 21, 23 scope 26:25 27:17, 25 34:2, 5, 8, 9, 18 35:4, 8, 18 41:24 52:6 54:15 55:13, 21 56:9, 19, 20, 22 57:7, 9, 12 77:1 82:19 90:9, 12, 16 102:11, 17, 19 103:7, 16, 25 117:18 122:11, 17 125:4, 11 128:19 129:4 134:7, 10, 14 135:2 137:7 146:12 148:20 170:17 173:15 174:17 175:1, 4, 7 179:1, 4, 7, 8 181:3 182:17 184:12 185:5, 20 186:4, 18 188:14 190:3, 7, 15 192:4, 14 209:15 scoped 126:20 127:2, 8, 12, 19 147:2 148:19 scoping 127:20 128:2, 4 seal 212:21 second 77:14, 23 95:10 126:25 155:18 secondary 159:4	second-to-last 75:2 91:25 124:21 sector 64:17 119:18 123:14 see 66:22 72:5, 16 73:16, 22, 23 75:1, 3, 9, 18 79:1 82:14 84:3 85:13 86:6 87:23 88:9 89:14 93:13 95:18, 19 96:2 98:19 100:16, 19, 25 103:18 106:23 110:18, 19 113:2 114:2 118:4, 5 122:9 123:18 124:8 125:1, 2 126:9, 11 129:1, 8 135:14, 15 137:12 146:17, 18 147:17 151:14 159:20 160:21 162:4 168:24 173:5 180:1 182:5, 6 185:5 188:2, 3, 7, 8 190:5, 6 193:7 194:12 196:12 198:10 seeing 88:19, 19 138:13 seeks 9:9 seen 59:16 160:11, 19 169:22 171:20 187:7 193:23 sees 95:5, 16 selected 23:12 self 93:14 self-sufficient 95:12 sell 20:12 40:10 73:19 78:23 79:4 83:6, 7, 13, 14 124:9, 13 132:8 143:4 155:1, 8 seller 123:13 167:19 sellers 123:9 selling 123:25 124:3 132:13, 15 sells 19:21 send 138:2, 3 sending 115:13 177:3	senior 14:15 17:4, 10 sense 22:2 60:2 76:5 133:15 151:24 155:7, 9 201:8, 20, 22 sent 11:2, 6, 13, 14, 19 112:15 115:18 129:10 144:19 148:4 149:9 205:20 sentence 83:16 88:2, 7 98:16 126:25 185:23 188:3, 8 separate 18:7 28:11 142:24 143:8 160:13 198:9 separation 115:14 September 1:15 6:1, 7 91:11, 14 92:2, 3 93:18, 21 sequence 61:13 series 60:20 77:14 196:8 serve 130:15 served 170:12 174:6 Service 32:9 59:10 Services 15:24 19:4, 5 20:12, 17 23:21 25:7 28:24 29:2, 7, 13, 25 31:6 32:11 43:7 88:4 89:25 90:1, 3, 4 145:6 155:6 156:8, 9 session 106:5 Set 5:2 36:21 87:19, 25 195:9, 22 196:7 212:20 Setti 52:20 54:3, 14 55:16 57:8 58:18, 23 59:19 60:10 85:7, 22, 25 86:8 87:3 90:15 91:12, 15 92:1, 5, 7 93:8 94:15 96:19 100:19 101:3 104:11 105:4, 12 110:5 115:10 Setting 43:12 89:19 Setti's 110:8
---	--	---	--

seven 142:22 143:11 210:23 shape 13:10, 11 share 204:10 205:23 206:8, 13 sheet 214:5, 7, 9, 10 short 38:21 70:12 138:21 191:19 209:7 shoulder 9:2 show 157:10 207:24 showed 154:20, 22 showing 77:11 84:24 91:4, 17 109:13 112:9 117:25 121:7 125:19 139:3 147:22 149:20 155:13 165:14 175:14 187:5 189:13 193:17 203:13 shown 154:9 213:7 shows 81:18 shrugs 9:2 sic 135:12 side 210:20 sides 165:7 sight 134:3 sign 210:24 214:7 signature 187:22 215:24 signed 106:21 107:12, 15 124:18 137:24 187:21 significance 127:16 163:3 significant 96:2 121:4, 6 193:6, 7 signing 212:13 214:8 similar 32:8 57:20 69:19 104:17 simple 24:25 simply 55:15 174:16 Simulator 34:1 95:16, 24 96:7, 15, 20 97:1, 9 122:7, 18, 22 124:20, 23 125:14 126:18	127:19 128:24 130:16 132:8, 13, 16 133:25 134:13 135:7, 13 136:12 137:22 138:9 146:12, 20 147:10 148:3, 11, 16 155:11 162:15, 25 sit 94:1 site 201:6 situation 40:21, 22 103:18 106:19 107:10, 11 121:3 171:4 situations 172:6 197:21 six 64:25 66:4 143:12, 13, 13 Sixth 2:3 sizes 97:20 slide 92:10 slong@chubb 115:10 Slong@Chubb.com 111:11 smiley 88:13 Smith 63:12 64:9 162:19 163:10 164:18 176:8 203:20 smooth 172:10 smoother 93:1, 4 software 19:14 20:2, 10, 17 21:5 22:6 23:21 25:4, 5 27:21, 22 28:7 32:20, 25 33:20 34:3, 13, 18 35:8, 17, 25 36:9 39:6, 18, 25 40:9, 10 41:24 42:3 43:13, 13, 19 44:22 45:1, 21 46:3, 5, 13 47:24 48:14 49:2 51:22 52:6 53:7 54:22 55:1 58:1 60:15 68:23, 25 69:22 73:20 76:5 78:25 79:17 80:9 82:17 86:10 90:5 92:22 93:11 95:21 97:25	98:10 102:23 103:2, 17 104:15, 18, 20, 22 106:7 107:16 110:21 111:2 112:3 115:24 116:12 119:10 120:24 143:1, 4 155:5 160:14 174:13 185:20 186:18 188:1, 11, 23 189:2 190:3, 23 192:1, 4, 7 193:2 194:10 196:21 198:2, 13, 14, 19 199:17, 25 200:11, 12 201:4 202:9, 16, 18, 19, 20 software's 75:23 sold 41:12 79:14 solution 21:24 23:12, 17, 20 24:6, 15, 18, 23 25:1, 3, 5 32:16 72:13 113:11 167:1, 13 176:24 177:2 somebody 124:15 166:15 201:15 somewhat 155:23 Sons 192:17 soon 50:18 99:9 116:25 sorry 9:25 12:10 14:5 18:8, 17 25:12 26:3 28:3, 21 30:1 31:11 32:4 34:21 38:8 39:9 40:13 43:1 56:3 58:15 73:7 74:8 76:9 89:23 90:12 91:13 92:1 106:11 107:5 108:4 116:21 118:11 121:19 123:8 132:13 138:3 149:17 150:15 152:20 162:7 169:13 173:20 177:15, 20 178:16 179:5 180:7 189:3 190:12 191:12	192:2 195:24 197:23 208:15 sort 28:11 29:4 63:20 84:21 87:13 124:1 131:17 164:1 sorts 44:22 203:2 sound 203:21 sounds 27:2 source 21:13 29:16 52:14 57:21 sources 21:6 29:19 103:19 South 2:3, 9 South-West 65:23 space 18:12 214:5 speak 8:17 32:10 78:11 158:21 161:15 177:3 191:2 205:8 speaking 23:9 30:10 79:11 157:2 173:9 speaks 161:17 208:23 specialist 20:1 53:20 63:6 64:3, 16 123:9, 13 167:18, 19 specialty 113:19 specific 19:7 27:23 28:6 32:4 40:4 42:3 43:19 44:14 45:13 54:8 58:4, 11, 15 68:2, 3, 9, 11 80:20 81:12 98:8, 11 107:7 119:15 126:24 127:10 137:11 146:13 150:11 159:6 171:12 177:20 180:7 197:15 198:24 200:2, 7 201:16 208:15 specifically 63:4 64:1 69:9 80:5 96:21 106:9 107:15 122:22 127:1 138:6 144:25 151:12 152:2, 13, 24 153:12
---	---	---	---

184:2 202:17 203:10 209:2 specifications 151:22 specifics 47:22 173:24 speculation 88:16 115:5 135:3 184:6 201:14 speed 163:16 spend 12:22 27:3 spent 26:14 27:10 62:1, 2 spoke 58:20 100:23 spoken 69:4 spreadsheet-based 151:22 spreadsheets 110:13 SSE 167:10, 14, 16, 18 staff 47:19 155:20 stage 23:24 25:8 stand 7:18 139:25 stand-alone 110:13 standard 154:23 standardize 169:24 standardized 176:1 stands 7:15 start 24:4 30:1 44:13 110:15 144:12, 14 148:20 started 13:4, 12 14:21 17:4 47:11 78:10 91:2 starting 15:17 127:6 starts 23:9 135:25 state 6:13 7:5 41:9 72:8 90:6 101:7 113:22 204:3 213:1 214:4 stated 25:2 83:5 104:25 212:8 statement 87:17, 18 89:12, 16 99:5 102:18 186:13 193:14 196:20 statements 56:20 81:5 90:16 182:16 188:25 STATES 1:3 6:6 38:5, 11, 12 69:13	72:10 81:19 82:2 85:10 103:25 105:8 107:12, 14 108:2, 23 109:8 121:24 122:5 130:22 137:9 143:18, 21 145:1, 4, 11, 18, 22 146:8 148:15 167:3 170:9 174:13 177:24 178:5, 11 183:2, 14 188:4 189:22 191:7, 24 192:18 194:10 197:12 stating 135:23 stationed 46:25 status 26:6 39:6, 24 40:8 41:2, 3, 5, 11 50:19, 21 51:17, 22, 24 52:5 steep 96:18 130:25 147:13 stenographically 212:10 step 76:24 steps 10:22 115:16 206:2 Steve 140:14, 17 206:19, 21 stick 176:20 stipulate 73:9 78:13 82:20 182:9 194:3 stop 114:22 169:4, 20 181:21 stored-procedure 86:5 story 44:22 48:7, 13, 15 49:16, 20 59:15 157:9 158:4, 19 159:6, 9 162:11 straight 77:7 strategies 178:8 strategy 205:23 Street 1:12 2:3, 9 6:12 strengths 177:2 Strike 21:20 28:4 49:1 83:18 93:20	132:14 201:25 strings 139:12 strong 176:25 structure 38:4 92:24 116:18, 19, 22 136:15 210:13, 20 structuring 151:23 studies 30:10 119:9 156:14, 16 171:9 study 156:19 157:3 162:10 subject 43:14 91:8 118:3 119:5, 18 156:15 170:15 190:3, 23 192:1, 3, 7 210:2 213:7 214:8 subjective 74:2 80:13 108:17, 17 submitted 162:15 subscribed 213:15 subsequent 57:4 substance 68:4, 13 substantive 183:19 succeeds 132:13, 15 success 44:22 48:24, 25 49:4 59:16 159:11, 15 successfully 45:19 sufficient 93:14 suggest 156:25 175:11 suggested 135:16 suggesting 207:24 suggestion 97:4 209:1 suggestions 21:23 suggests 134:15 suitability 110:16 Suite 2:4 14:1 17:15, 18 18:7 19:9, 12, 24 139:23 141:10, 13, 22 142:1, 9, 19 156:3 Sullivan 155:19 156:12 Sully 123:21, 25 124:11 summarize 135:11 136:13 summarizes 136:10	summary 176:15 204:1 208:9 Supplemental 5:2 supply 126:21 support 28:12, 14, 22 137:15 202:8 suppose 163:9 Sure 18:9 21:10 25:14 26:13 27:9 31:24 38:17 41:5 47:5 48:10 52:9 53:10 56:5 58:20 65:8 73:12 79:23 80:15 101:9, 19 106:19 111:5 116:15 123:11 136:10 140:18 151:2, 3 154:4 155:21 165:9 166:24 169:1, 2, 7, 9, 14, 15 170:3 182:23 184:19 191:24 194:21, 23 195:4, 5 204:13 205:10 209:20 surprise 81:12 178:3 184:3 185:18 suspect 207:15, 23 swear 6:22 switch 168:16 switching 169:10 switchover 140:18 sworn 6:24 8:2 212:7 213:15 system 19:17 53:11, 16, 21 56:12 75:19 89:1 99:19 110:10, 11 128:15 129:20 152:1 197:11 201:23 systematic 11:14 systems 23:24 120:19 < T > table 181:20 Tactical 148:19 take 10:22 11:16 36:6 38:16 54:13 70:19 72:14 76:4, 25 85:2 87:13, 25
---	--	--	--

97:14, 20 100:15 103:6, 15 104:8 114:25 115:9 125:21 126:3 133:14 138:18 159:20 164:23 179:20 180:9, 14, 20 193:9 204:16 208:3 taken 1:9 115:16 145:4 172:12 188:10 201:17 206:15 212:8 takes 24:7 187:24 200:21 talk 165:7 167:22 175:1 176:19 196:13 talked 39:4 150:12 166:21 171:21 173:13 209:13 talking 80:22 81:4 86:23 92:13 120:2, 9 131:17 153:22 154:3 199:6 talks 203:7 tape 191:14 target 37:18, 20, 24 38:7, 11 154:12 targets 133:3 task 110:14, 16 team 9:13, 14 14:8 29:7 37:22, 23 51:6 85:12 86:1, 12 87:21 93:17 95:9 98:25 105:24 112:22 137:15 142:21, 23 143:7, 11 144:9 167:1 168:7 169:8 172:10 182:24 191:5 205:11, 13 206:7, 17 teams 143:9 144:9 183:15 team's 101:23 technical 26:20 28:12, 14, 22, 25 104:12 116:14 200:24 technologies 142:25 technology 21:2 22:7 35:2 45:5, 19	59:7 95:6 111:1 116:10 119:11 143:9 152:7 153:21 166:4 168:6, 20, 23 175:24 176:11, 17 203:25 206:4 209:2 tell 8:10, 22 17:22 28:16 60:2 67:21 68:1 105:22 112:12 118:22, 23 150:6 151:15, 18 165:3 173:10 tend 172:9 tends 35:1 45:23 144:12 term 27:23 28:5 74:21 75:21 80:13 88:6 94:12 108:18, 20, 21 130:9 termination 193:25 194:3, 16 203:7 terms 8:15 9:1 15:2 24:22 30:14 31:13 35:24 40:10 41:13 60:18 74:19 75:20 79:14 88:5 90:2 101:10 105:22 109:7 134:3 137:23 148:13 154:21 176:17 177:7 194:17 198:13 terrible 145:9 territories 107:17 territory 182:4, 8, 14 183:19, 21 184:1 185:1 test 51:15 68:8 75:23 testified 6:25 56:18 testify 62:5 74:2 212:7 testifying 8:3, 5 testimony 27:6 31:9 37:2 39:8 55:25 57:6, 15 72:20 73:5 81:7 102:12 135:21, 23 153:11 169:12 181:8, 9 185:7	191:10, 11 193:4 212:12 213:5 texted 66:16 Thank 72:3 83:24 87:9, 11 175:16 183:6 210:21, 25 thanks 87:20 88:8 89:13 115:13 128:14 135:11 176:5 180:25 theme 32:8 thing 32:7 44:20 49:12, 14 57:22 104:15, 25 157:21 171:7 194:22 things 30:7, 10 31:19, 22 32:5 33:14 45:16 62:5 67:15 81:10 90:5 101:6 124:16 137:16 157:5, 20 158:2 160:13, 21 161:11 163:16 167:21 172:9 202:22 203:2 think 15:5 30:25 32:19 33:13 34:15 37:9, 19 39:13 44:9 45:23 47:5 48:6 59:4 62:10 65:19 71:19, 20 80:12, 13 88:2, 21 89:15 95:13 97:12 98:14 104:3 123:21 130:11 132:19 139:11 140:18 141:4 144:19, 24 146:10 148:23 153:7 154:21 158:2 160:13, 24 161:6 162:6 163:3 165:4 166:13 173:12, 13 185:22 190:20 191:14 197:17 200:2, 7 206:12 207:15 210:17, 23 thinking 112:5 161:15 206:2 207:15, 19, 23	third 100:15 106:18 144:7 thirty 214:11 thoroughly 129:22 thought 57:11 72:23 77:5 169:1 176:16 204:7 206:13 thousand 11:24 three 13:18 83:4 141:6 142:8, 23 143:22 145:23 165:2 181:6, 12, 23 tied 37:16 146:13 time 6:8 12:22 17:22 26:11, 14 27:3, 10 32:16 33:19 38:19, 23 47:10, 14 49:20 50:2, 3, 4, 15, 25 52:24 53:2, 3, 13, 24, 25 55:19 56:7 59:20, 22 60:1, 25 61:15, 21 62:1, 15, 16 63:5 64:4, 24 66:4 69:16 70:5, 10, 14 71:8, 15, 19, 22 72:18 76:12 80:1, 2, 4, 20 82:16 83:4 84:7, 16 88:25 90:8 93:20, 23 99:3, 9, 25 100:4 102:11 107:23 112:22 113:13 114:10 117:4 118:20, 20 121:6 123:8, 11, 16 129:22 133:11, 12, 17, 18 134:23 138:19, 23 139:20 140:12, 16, 19 145:11 147:7 156:22 157:13 166:24, 25 167:22 168:23 171:14, 18 178:16 185:3 189:11 191:3, 17, 21 209:5, 9, 21 211:1 212:8 time-consuming 12:7 Timeframe 60:7
---	---	--	--

timeline 160:16 162:17 timelines 12:14, 25 times 108:6, 13 145:20, 21, 23 timing 8:15 title 14:5 15:24 123:11 140:25 141:4 155:21 164:3 titles 182:24 today 6:9, 21 9:7, 21 94:1 157:8 166:22 178:25 193:4 209:13 Today's 6:7 told 31:9 56:23 68:4, 13 146:22 160:22 177:8 179:3 190:17 193:8 Tom 182:22 183:23 189:15 tomorrow 111:6 167:22 Tom's 185:23 Tonkin 121:13, 17, 24 122:5, 13 123:3 126:10 128:13, 17 129:3 130:1, 22 Tools 17:25 18:5, 12 110:12 top 100:18 106:12, 14 130:17 158:24 180:21 topic 11:11 66:18 70:6 80:6 81:6 90:18 123:25 137:4 140:4 166:4 170:16 172:20 173:15 177:25 181:25 topics 164:11 171:16 176:14, 23 total 33:22 142:17 totality 161:24 touch 64:24 86:3, 4 160:21 trade 7:21 trained 68:17 124:12 training 15:25 73:21 93:16 95:13	123:21, 24 124:5, 7, 8, 11 144:9, 9 145:6 150:18 151:6 154:10 155:5, 8, 9 transactions 202:23 transcript 213:6 214:12, 13 transfer 200:22 travel 143:18, 21 145:21 146:8 traveling 133:18 tried 105:6 184:17 triggered 175:24 trip 145:17 trips 145:4 true 41:16, 17 42:4, 21 135:20 212:11 213:6 truly 43:18 trusted 157:19, 24 truth 212:7 try 26:16 39:20 40:14 78:11 168:24 trying 18:18 20:11 31:11 34:16 53:5 60:2, 5 89:4 137:22 153:6 158:15 168:22 Tuesday 1:15 6:1 turn 110:2 133:4 137:2 twice 166:19 two 12:23 20:20 27:1 29:19 30:15, 15 45:24 46:5 57:22 65:9 68:15 97:11, 15 102:4 109:4 110:23 119:2, 20 133:19 141:13, 19 150:18 160:13 170:10 175:3 183:18, 24 184:8 185:24 190:2, 22 191:25 192:3 194:11, 22 196:21 198:10 two-hour 119:23 type 45:6 124:11, 13 136:19 151:13 Typically 11:4 23:14, 25 24:6	120:9 126:20 127:2, 8 152:7 163:15 < U > UK 22:21 47:22 78:10 82:12, 23 83:21 84:17 95:1 97:2 130:12 142:7 148:15, 19 149:3, 7 158:6 159:3, 6 179:25 186:3, 18 188:1, 23 190:2, 14, 22 191:25 192:3, 6, 13 196:21 UK-only 150:7 ultimately 147:16 162:9 unable 62:1, 10 188:16 194:21 unaware 84:10 109:11 unclear 87:18 undergraduate 16:17 underlined 95:15 underlying 20:10 117:5, 7 138:10 underran 119:25 understand 8:3, 6, 9, 11, 23, 24 9:4 13:4 18:18 24:13 27:14, 17, 19 28:1 33:11, 22 35:20 36:16 38:25 39:5, 13, 16, 24 45:2, 17 49:20 50:19, 22 53:5, 19 55:11 60:5 67:4, 11, 14, 17 70:16 83:6 89:4 98:24 100:6 122:17 138:25 153:7, 22 168:22 171:13 172:19 181:19 183:15 185:11 186:2 188:9 189:5 209:11 understanding 21:15 34:7 40:24 41:12 46:10 53:20, 25 54:13 55:19	56:7, 18 57:6 67:9 72:18 73:1 97:17 98:9 99:4 104:23 105:11 107:24 108:16 109:2, 5 114:10 117:10 120:14, 17, 22 125:13 127:11, 13 130:7, 14 131:12, 14 135:1 168:23 169:21 181:22 186:16, 21, 25 192:20 193:10 205:10, 14 understood 46:12 73:4, 8 101:21, 23 172:24 undertake 159:12 underway 177:12 underwriting 53:23, 24 78:12 82:12, 23 83:20 104:24 113:18 146:15 Unfortunately 89:16 113:17 unhappiness 80:16 unhappy 80:7, 12 UNITED 1:3, 13 6:6 16:8, 16 38:5, 11, 12 69:13 103:25 107:12, 14 108:2, 23 109:8 143:18, 21 145:1, 4, 11, 18, 22 146:8 167:3 174:13 177:24 178:5, 11 183:2 191:7 192:18 194:10, 11, 19, 20 196:14 197:12 198:11 university 16:4, 6, 16 unknown 136:3 unlicensed 102:24 upcoming 20:25 update 175:22 177:6 203:21 205:16 209:1 upgrade 73:20 upside 88:3, 5 USA 124:19
---	--	---	--

<p>usage 21:23 22:2, 4, 5, 7 45:5 46:9 48:11 54:19 56:12, 24 57:3, 7, 24 72:23 86:20 106:21 107:13 126:18 128:14, 24 147:7, 10, 18 150:11 160:6, 12, 14, 18, 20 161:1, 8 175:25 202:16, 17, 19 203:12</p> <p>usages 131:16</p> <p>use 9:2 17:1 34:12 43:4, 16, 24 47:24 48:4, 14 49:16, 21 51:14 52:10 53:12, 16, 16 54:13, 21, 25 55:12, 21, 22 56:8, 10 57:12 58:18 67:18 69:8, 11, 22 70:2, 3 75:17 76:14 77:1 79:24, 25 80:9, 19 84:7 86:9, 23, 25 90:16 91:9 93:19 97:1 101:17, 21, 23 102:23, 23 103:2, 5 104:14 105:11, 13 106:4 108:1, 9, 23 109:7 110:21 111:2, 19 113:11, 17, 18, 24 114:5, 6, 11, 22 115:19, 23 116:5, 11, 16 117:14, 15 118:9, 16 119:10, 14 120:7, 15 124:23 126:22 127:10 146:14, 15, 19 148:15 149:2 152:6, 11, 18, 22 153:3, 9, 16, 19 154:1 155:6 158:1, 12, 17, 18 160:7 164:12, 18 174:8, 12 182:4, 8, 14 184:4 185:4, 5, 19 186:3, 17 188:11, 22 189:2 191:7, 8 193:11 194:10, 14 196:2, 6, 20, 24 197:11 200:8</p>	<p>202:1, 9, 21 203:5 207:21 210:12</p> <p>user 158:7</p> <p>uses 42:24 107:5 112:17</p> <p>utilized 194:11 196:14 198:11, 12, 23</p> <p>UW 83:19 179:25</p> <p>< V ></p> <p>vague 12:9 26:2 28:18 34:4, 19 52:24 54:7 116:19 117:20 200:14</p> <p>vagueness 43:9 51:24</p> <p>validate 52:8 110:25</p> <p>valuable 59:8</p> <p>valuation 166:4 177:10</p> <p>value 33:22, 23 59:17 95:16 138:14 151:7 195:15 209:1</p> <p>variable 144:12</p> <p>varies 24:22</p> <p>various 160:15</p> <p>vendor 23:12 161:15 170:14 205:24</p> <p>verbal 69:20</p> <p>verbally 80:5 81:9</p> <p>verify 52:5</p> <p>version 53:9 204:1 205:1</p> <p>versions 182:3</p> <p>versus 6:5 168:6, 21</p> <p>VHI 156:16 158:25 159:18 160:2</p> <p>video 6:8, 9, 10</p> <p>Videographer 2:12 6:3, 21 38:19, 23 70:10, 14 99:25 100:4 138:19, 23 189:10 191:17, 21 209:5, 9 211:1</p> <p>videotaped 6:3</p>	<p>view 59:8 103:1, 8 164:11 193:6 199:15</p> <p>viewed 49:12</p> <p>violation 188:5, 11, 23</p> <p>visibility 124:15 163:22 164:2</p> <p>visit 32:15 144:8 145:19 168:8</p> <p>visited 118:21 145:12</p> <p>visual 105:25</p> <p>visualize 106:20</p> <p>voice 6:13</p> <p>< W ></p> <p>wait 8:16</p> <p>waited 177:9</p> <p>waiting 77:18</p> <p>waived 212:14</p> <p>want 56:5 68:6, 7 87:13 92:22 102:22 124:1 138:6 146:14 147:18 157:22 158:8 161:15 168:18 169:4 195:3 200:10, 16 201:22</p> <p>wanted 96:5 101:6 105:25 110:15 112:6 152:15 166:17 168:18 169:2, 7, 9 206:8 208:12</p> <p>wanting 86:23</p> <p>wants 75:18 78:12</p> <p>Warwick 16:16</p> <p>way 18:16 19:19 21:19 25:20 30:23 36:20 47:25 48:3 49:23 61:18 86:15, 24 104:22 106:1 151:24 154:23 172:10 184:16, 23 186:22 194:18 196:22 202:2, 10 203:5 205:11, 15 212:18</p>	<p>ways 30:16 34:17 35:7 54:1 92:22</p> <p>web 110:9</p> <p>Wednesday 168:8 171:17 174:18</p> <p>weeks 10:3</p> <p>weight 102:15, 17, 20 103:13</p> <p>Well 12:2 16:1 25:24 27:13 30:5, 11 40:23 43:9 48:3 56:21 58:3 60:2 72:11 88:25 92:10 95:2, 7 102:10, 22 103:22 112:25 118:23 120:4 130:13 134:14 152:24 155:8, 9 159:10 160:19 162:4 168:25 179:11 181:16, 17 207:24 208:17</p> <p>well-connected 95:8</p> <p>went 65:15, 16</p> <p>We're 73:9 77:18 110:14 112:5 137:22 140:4 158:6, 23 199:6</p> <p>We've 70:8 110:9 138:15 139:11 160:11, 19 166:21 178:25 184:21 185:11 188:25 191:14 207:25 209:13 210:23</p> <p>WHEREOF 212:20</p> <p>White 1:12 2:12 6:21 143:5 212:5, 24</p> <p>wide 49:9 182:3, 13</p> <p>widely 49:5</p> <p>wider 59:6 204:4</p> <p>willing 53:10 73:9 171:4</p> <p>Wilson 75:2, 15 85:11, 17, 19, 22</p> <p>win 206:3</p> <p>wish 215:3</p> <p>withhold 208:20</p>
---	---	--	---

<p>witness 1:9 6:22 31:10, 13 57:16 74:2 79:6 181:21 194:4 210:17 212:6, 12, 15, 20 213:4 214:1 215:24 witness's 188:14 WMW 1:3 WMW-DTS 6:7 Woodward 2:13 6:19, 19 9:15 186:9, 23 word 33:13 48:22 59:4 168:2, 4 208:2 wording 68:2, 3, 9, 12 149:5 words 9:2 175:5 work 7:9, 10 9:9 14:24 15:20 17:6, 7, 14 22:10, 13, 17 24:9, 12, 20 32:9 35:1 36:23 37:5 52:23 53:3 58:23 59:19 60:3, 6 66:25 87:13 97:6 100:24 133:22 143:9 146:25 151:19 168:7, 25 178:12 189:1 192:20 195:7 196:5 worked 14:25 15:19 17:18 22:1 58:18 167:10, 15 194:24 working 13:17 17:10 23:1, 3, 23 27:15, 18 39:4, 17, 23 44:13, 15 51:2 52:10, 19 54:18 55:20 56:7 59:2, 22 60:4 65:17 67:4, 6 105:12 117:6 129:12 153:3, 5 154:16 156:7 184:20 196:24 209:22 works 38:17 85:25 137:15 168:24 187:25 workshop 105:24 workshops 24:1</p>	<p>World 143:25 145:13, 16, 17 worth 37:9 141:14 150:17 166:19 write 60:22 92:7 111:4 113:21 130:1 137:14 148:18 167:25 205:21 207:13 writes 78:9 104:11 111:11 113:16 128:13 131:8, 23 133:20 137:7 155:25 167:20 170:6 194:6 204:14 206:18 writing 86:8, 22, 22 101:2 102:7 125:15 161:7 written 34:11 73:17 79:20 81:21, 25 82:15 83:1 87:24 96:9 98:20 111:8 116:2 130:5 132:6 134:5 136:9 137:13 170:19 175:12 176:4 182:6 183:23 207:12 wrote 28:16 55:7, 8 72:4 96:10 97:3 107:23 114:10 116:4, 13 130:5 131:3 135:9 138:1 147:8 148:22 149:12 159:23 160:9, 25 167:24 175:20 179:22 203:20 204:18 < Y > yeah 15:13 18:18 20:4 63:19 74:14 88:21 99:10 101:4, 10 109:25 116:24 119:19 148:4 163:2 178:1 179:6, 21 year 35:16 65:9, 10, 14 143:24 144:13,</p>	<p>14 145:7, 21, 23, 25 146:7, 7 year-and-a-half 110:24 years 13:4 46:13 65:9 72:14 110:23 143:25 145:24 146:1, 3 184:20 194:25 yesterday 9:13 yesterday's 175:22 177:16 Young 156:11 < Z > zone 133:17</p>
--	---	--